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ABSTRACT

This volume of hearings on categorical aid programs contains statements by federal and State legislators, educators, concerned citizens, and other groups affected by categorical aid programs. The speakers discuss proposed modifications of existing programs in the elementary and secondary education areas. (Pages 2,267 and 2,450-2,452 may reproduce poorly.) (JF)

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EDUCATION LEGISLATION, 1973

HEARINGS

BEFORE THE

SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

S. 1539

TO AMEND AND EXTEND CERTAIN ACTS RELATING TO ELEMENTARY AND SECONDARY EDUCATION PROGRAMS, AND FOR OTHER PURPOSES

AND RELATED BILLS

PART 6

SEPTEMBER 14, OCTOBER 4, 9, AND 10, 1973

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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EDUCATION LEGISLATION, 1973

Categorical Education Programs

FRIDAY, SEPTEMBER 14, 1973

U.S. SENATE,
SUBCOMMITTEE ON EDUCATION OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The committee met at 10:10 a.m., in room 5110, Dirksen Senate Office Building, Senator Claiborne Pell, chairman of the subcommittee, presiding.

Present: Senators Hathaway, Beall, Mondale, and Stafford.

Senator PELL. The Subcommittee on Education will come to order.

The Chair is under pressure this morning with meeting schedules and I will have to leave at 11:45, so we, unfortunately, will have to abbreviate the testimony of the witnesses this morning to expedite this hearing.

In deference to Senator Mondale who has to leave shortly himself, I am going to ask that certain witnesses be called out of order. I would ask to come forward at this time Martin Sabo, speaker of the Minnesota House of Representatives and Joseph Harder, majority leader of the Kansas State Senate.

Senator Mondale.

Senator MONDALE. Mr. Chairman, I am most grateful to you for permitting this change in the lineup of this morning's testimony because of my schedule. You are very kind to make the change.

I want to introduce the speaker of our State House of Representatives, an old friend of mine, from Minnesota, Martin Sabo is only 35 years old but he is one of our most seasoned legislators.

He is one of the most thoughtful and able leaders in our State. Recently Time magazine discovered there was a State of Minnesota, and listed three or four young leaders who were coming along as outstanding examples of what Time said was one of the most remarkable political systems in the country.

Martin Sabo was listed as one of our most ablest legislators. He has had a long standing interest in educational financing in Minnesota. The chairman might be interested in knowing before the courts appeared to be requiring, through the *Rodriquez* case and others, a minimum equal distribution of financing, Minnesota swung from a system in which the State supported the operating expense of local systems at a minimal level to a system where we now support it at the level of 70 percent. We did that in 1 year.

It was a great act of vision and also of courage. I believe we increased State pending this bienium over the previous bienium by $1.3 billion in order to see that the State did its part in minium financing of our substantial financing of the local school districts.

The speaker is, I think, primarily responsible, along with the Governor, for that accomplishment, and I am very pleased to introduce him this morning.

Thank you, Senator Mondale. Would you please proceed, Mr. Sabo.

STATEMENT OF MARTIN SABO, SPEAKER, MINNESOTA HOUSE OF REPRESENTATIVES, AND JOSEPH C. HARDER, MAJORITY LEADER, KANSAS STATE SENATE, NATIONAL LEGISLATIVE CONFERENCE

Mr. SABO. Thank you, Senator Pell and Senator Mondale.

Let me express my appreciation for the change in schedule so that we could appear today. I offer my apologies that I could not be here this past Tuesday when Governor Rampton was here before your subcommittee, and appreciate your adjusting your schedule so we can be here today.

Senator Harder is with me today and will also be speaking to you later on the question of impact aid as it applies to the State of Kansas and some of the work he has done in that area.

On Tuesday of this week Governor Calvin Rampton of Utah appeared before this subcommittee representing the National Governors' Conference and the Education Commission of the States to discuss modifications of existing Federal education programs in the elementary and secondary education area.

I appear before you today as vice president of the National Legislative Conference and Chairman of the Conference's Education Task Force. What I have to say will be very brief for I would prefer to have some time to respond to specific questions you may have about equalization efforts going on in the States and how future Federal funding can relate to and encourage those efforts.

I would like to begin by saying that the National Legislative Conference is in harmony with the principles stated by Governor Rampton in his testimony. One of the fundamental points he made bears reemphasizing—namely, that Federal aid to education, whether categorical in character with specific guidelines or administered with considerable State discretion, must dovetail with State school finance systems in order that Federal assistance does not distort opportunities and priorities at the State and local level.

This is particularly true where a State has adopted a school finance ssytem which recognizes the higher costs of meeting the educational needs of those students who are given special attention by Federal programs—the disadvantaged, handicapped, and those requiring vocational education.

Present proposals at the Federal level seem to view equalization as a desirable goal to be achieved through the provision of a new Federal program alongside existing categorical programs rather than the means for developing a comprehensive and consolidated fiscal relationship between the Federal Government and the States which is responsive to the educational needs of all children.

As effective equalization legislation is adopted by more and more States, the ability of local districts with substantial numbers of economically disadvantaged children to finance the education of those children will be enhanced. Where State law goes beyond financial equalization to provide special financial assistance to meet the higher costs of compensatory education and special education, this fact must be recognized by the Congress in the way Federal aid is provided.

Ultimately, State finance systems which contain these factors should be the vehicle for most, if not all, Federal assistance which should, under these circumstances, go to the States on an unrestricted basis.

Mr. Chairman, if I leave the committee with nothing else but an appreciation of the fact that significant efforts on behalf of achieving equal educational opportunities through reforms in State school finance systems have been going on in a number of States and and will be intensified during the next few years, then my presence will have been worth it.

Governor Rampton, I am told, gave a clear description of Utah's new State aid formula; I would like to take just a few moments to familiarize the committee members with what has happened in Minnesota over the past couple of years.

We moved from the level of State funding in the lower 40 percent, as Senator Mondale mentioned, to a system which provides approximately 60 percent of the maintenance support of the elementary and secondary education from State funds.

We adopted the plan in 1971 and revised it in 1973. We weight pupils on a pupil unit basis more heavily for secondary compared to elementary students. The basic formula provided $788 minus the local effort for the 1973–74 school year; $820 minus the same local effort for the school year 1974–75.

We were aware of the problem of educational overburden, that here are some children who cost more to educate than others, and we adopted a formula for providing additional aid to school districts on the basis of number of AFDC students in that particular school district.

The 1971 program had the basic additional pupil quantity for each AFDC in the school district. We increased this in 1973 by recognizing where there was a concentration of such students, the greater problems existed, and provided that the more than 10 percent of the students in a particular school district were AFDC students, that their additional .85 percent AFDC aid would be paid to that school district.

This means in the current year in the city of Minneapolis $760 is paid to that school district for every student who is on AFDC. In 1974–75 that will increase to $797.

If I might add in terms of how we structure our school aid formula in the State, we provide substantial forward funding of the program. The law that we passed in 1973 includes the formula for the 1973–74 school year, for the 1974–75 school year, and while the actual formula for 1975–76 is not in the bill, the way it is written it in effect mandates what the State must do in the year 1975–76 school year in terms of school funding, so the school districts know well in advance what type of State aid will be coming.

We also dealt with another problem which is similar to the problem that those of us in the States see as it relates to impact aid. We had numerous in-lieu aids in the State of Minnesota, and we provided that certain in-lieu aids are paid to local school districts and are counted as part of the local effort for the school aid formula.

The basic law that we passed in 1971 dealt with the equalization of the property tax effort required. We modified and changed that in 1973 so that over a 6-year period of time all school districts that are spending below the State mandate average will be brought up to that average.

We slowed down the ability of the high spending districts to increase their pupil aid so over a period of years we will gradually bring the spending levels of various school districts much closer together.

Also the State passed the new municipal formula which provided substantial additional funds for municipal government in those areas where municipal costs are high.

We would think that the school aid formula that was adopted in Minnesota would bring us in substantial compliance with any type of court tests that might be brought along the lines of the *Rodriguez* case in the State of Texas.

Perhaps equally significant to the innovations in education finance within individual States is the fact that the National Legislative Conference, the oldest and most broadly based organization representing 7,600 State legislators throughout the United States, has made a firm commitment on behalf of reform.

Months prior to the U.S. Supreme Court decision on the *Rodriguez* case, the National Legislative Conference took the position that school finance reform is a State responsibility and ought to be pursued vigorously. Almost 2 years ago our intergovernmental relations committee established a special committee on school finance, chaired by Senator Thomas Laverne, of New York.

The charge to the special committee was to examine the requirements developed by the court decisions, to explore the range of alternative school finance systems permissible under those rulings, and to recommend policy positions which would assist the States toward equalizing educational opportunities for their children. The recommendations of the special committee on school finance were adopted unanimously by the entire National Legislative Conference last year at its annual meeting.

With the Chairman's permission, I would like to have the entire National Legislative Conference policy position on school finance introduced into the record. I believe the committee has a copy of that.

[Senator Mondale assumed the chair.]

Senator MONDALE [presiding pro tempore]. Without objection, it will appear following your testimony.

Mr. SABO. Thank you. Let me highlight just a few of those positions.

The National Legislative Conference intends to serve a catalytic role on behalf of education finance reform. We believe there is no dearth of innovative thinking and research on this subject; what is lacking, however, is the effective communication of alternative taxing and spending solutions, consistent with National Legislative Conference principles, to the decisionmakers at the State level who must bear the responsibility for reform.

This was prior to the Supreme Court's overturning the lower court's decision in the *Rodriguez* case that we were in basic agreement with these court decisions, and regardless of what court action might bring, we believe that the basic principle involved is good public policy and should be the objective of all of our States.

I might indicate that at this year's convention we adopted another resolution that said that we retained our old position in support of additional Federal funding and the changes in the Federal system of financing elementary and secondary education; that we were not willing to accept a reduction in Federal revenues for a change in form. It clearly must be at least the same amount or more revenues.

As it relates to impact aid, there was a strong feeling that clearly there is a need for State discretion as to how these funds should be used in determining local effort. Where a State has moved to a system of equalization, this restriction in Federal law can completely alter that intent at the State level.

We would also urge Congress to restructure its appropriation process. School districts must know well in advance of the school year the exact amount of their Federal aid. We think this makes sense in terms of having sensible planning at the State level and at the local district level on what to do with the moneys that are available.

Clearly this is what we have to do at the State level. As I indicated in Minnesota we adopt our school aid for 2 years in the future with a strong guideline to the third year so we know what it will be actually 3 years in advance.

To accomplish our objectives, the National Legislative Conference, assisted by the education commission of the States, has been pursuing a modest program of providing information to legislators about developments in the field. However, we have become convinced that a more extensive effort is needed if interest in school finance reform is to be harnessed for constructive legislation. We believe the time to begin this effort is in the next few months, prior to the opening of 1974 legislative sessions.

The strategy for fulfilling these commitments involves both a short- and long-term effort. The short-term process would primarily be one of information dissemination. It would involve a series of five or six regional seminars which would provide a forum at which State officials (mostly State legislative leaders and education committee chairmen) and legislative and executive staff can engage in a dialog with experts in the field of education, public finance, and law about the process of transforming present school finance structures into more acceptable systems wherein unreasonable disparities in taxing efforts and spending will no longer be tolerated and the goals of equal educational opportunities and quality education can be enhanced.

More specifically, the seminars will be designed to expose these key officials to much of the new thinking in this area, to acquaint them with some of the myths and unrealities of finance reform and to communicate the experiences of a number of States in coping with some of the impediments, both political and fiscal, to producing an equalized school aid formula. The immediate goal is to initiate public discussion and legislative debate on school finance, leading hopefully to the introduction and passage of legislative alternatives to present school aid formulas within the State legislatures as they begin their 1974 sessions.

On a more sustained basis funds would be used for the development of a number of followup activities to assure that the momentum created by the seminars would not be dissipated. For example, the need for a full-time staff person to oversee ongoing activities in education finance within the States is apparent.

As new school aid formulas are created, the need for monitoring the various experiences of States in the implementation of this new legislation will increase. The staff person could perform a useful function as a broker for assuring that the proper kind of technical assistance and or information is provided to the legislatures once discussions on education finance are underway. In this capacity, the staff person would serve as a link between the numerous education interest groups and other organizations which have provided and will continue to provide invaluable research and data on school finance.

We have been pursing a rather modest program of bringing information to all the States in terms of what has happened in school finance reforms in those States that have dealt with the problem. We are currently planning to expand that role. We hope to be shortly able to announce the organization of five or six regional seminars throughout this country which would involve bringing in the educational leadership of the various State legislatures and also some executive representatives from the executive branch of Government to enter into a dialog as to what has happened to school finance reform, what can be done, how States can respond to the problem, and to try to increase the awareness of our members as legislators around this country in what they can do to deal with this problem in their respective States.

We would also hope that we would be able to get funding so we could develop a staff which could be on call to move from State to State as they begin to deal with the problem, to provide some of the technical data that so often is lacking as States begin to reform their school funding systems.

Mr. Chairman and Senator, thank you for this opportunity to appear today. Senator Haro[illegible] is with me, and he and I will be happy to respond to any questions that you may have.

[The document referred to previously and subsequently supplied for the record follows:]

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NATIONAL LEGISLATIVE CONFERENCE
FOR SERVICE TO STATE LEGISLATURES
SECRETARIAT: THE COUNCIL OF STATE GOVERNMENTS

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REPORT OF THE
NATIONAL LEGISLATIVE CONFERENCE
SPECIAL COMMITTEE ON SCHOOL FINANCE

Adopted by the
National Legislative Conference
on August 3, 1972

with offices in

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SPECIAL COMMITTEE ON SCHOOL FINANCE

Brown v. Board of Education set the stage for a new era of thinking as to the availability of certain fundamental rights to all citizens on equal terms. The case was based on two important assumptions:

(1) Education is perhaps the most important function of state and local government.

(2) It is doubtful that any child may succeed in life if he is denied the opportunity of an education.

The decision made it plain that there is no compelling state interest which will justify any racially discriminatory policy in public education.

Today, almost twenty years later, a new challenge is before the public and the courts -- a challenge with ramifications as far reaching as those initiated by the Brown ruling. The courts are now being asked to consider the proposition that education is a fundamental personal right, protected by the State, and being asked to rule that the present system of elementary and secondary educational financing, which is conditioned on the wealth of a child's parents and neighbors, is unlawful.

Two major forces have brought this issue to the Nation's attention through the courts:

(1) The rising cost of public education, coupled to a growing resistance to further property tax increases, and

(2) The rising demand for equality in the distribution of public services.

In practically every State in the Nation, wide variations exist in the amount of taxable wealth available to local school districts. Because their taxing efforts have been limited to the availability of local revenues, the public school systems have been unable to provide equal educational opportunities to their children. Efforts by the States to eliminate, or at least reduce, these disparities in the delivery of educational resources have simply not been able to keep pace with the demands.

Challenges to the present school finance standards have shown that taxpayers in a "poor" school district are forced to make substantially greater contributions to provide substantially less revenue for the operation and maintenance of their schools as compared with what is required of taxpayers in a "rich" district. The Supreme Court of California has ruled, in the now famous Serrano v. Priest case, that the quality of a child's public education (as defined by the level of expenditures) must not depend on the wealth of the child's school district or family.

Since that August 1971 decision was handed down, similar challenges to the inequities in public educational finance have been made in several state and federal courts. To date none of these court cases have suggested:

(1) That the use of the property tax, as a tax source for public education, is unconsitutional; or

(2) That the same amount of dollars must be spent on each child within the State; or

(3) That the State must adopt any specific school finance system.

Though the parameters of this problem will only emerge on a case by case review of new State programs as they are enacted, the States still have a wide range of alternative school finance systems from which to choose to effect the twin goals of quality education and equal educational opportunity. Nevertheless, one principle is fixed and unequivocal: local wealth can no longer be a major determinant in providing educational opportunity to elementary and secondary school children.

The National Legislative Conference affirms the principle that all States have an obligation to provide an equal educational opportunity and quality education to all children attending public schools within their jurisdiction. We are in agreement with the principle established in Serrano v. Priest that the quality of a student's public elementary and secondary education should not be dependent on the affluence of his parents or school district. Regardless of future court actions, we believe the principle established by Serrano, so far as public education is concerned, is essentially reasonable and equitable and ought to serve as a policy objective for every State.

We recognize that varying Constitutional dictates and differing tax preferences within the separate States make it impossible to suggest any specific uniform school finance system that would meet the needs of all the States. Each State, therefore, will have to develop that system which best responds to its individual circumstances. Whatever general guidelines are agreed upon by the States, however, must be fair and equitable to both the taxpayer and the public school student, and must, by definition, include:

(1) Equalization of property taxes, and

(2) Control of local expenditure levels.

In order to accomplish these objectives, the National Legislative Conference makes the following recommendations:

I. Money alone will not cure all the ills of our public education system but no improvements can be made until the manner in which educational funds are raised and distributed is altered.

> The States, in line with their clear Constitutional jurisdiction over education, should assume full responsibility for regulating the collection and distribution of the revenue for public elementary and secondary education.

II. Evidence clearly shows that the manner by which local property taxes are levied for financing public education favors wealthy localities with a large non-residential tax base and penalizes those jurisdictions with a small non-residential base.

The States, in fulfilling their responsibility in the area of educational finance, should move toward stabilization and, where possible, a reduction in their reliance on the local property tax as a revenue source for public education.

States which continue to use the property tax as a source of educational revenue should initiate a review and, where necessary, a reformation of their property tax administration. Specifically, the States are urged to adopt a uniform system of assessment to assure an equalized property tax burden.

The method of taxation used to supplement or supplant the property tax should have a growth factor comparable to the increase of educational costs.

III. Local, non-educational public services are financed largely from the property tax, and although the central cities tend to have a relatively large property tax base, the total burden placed upon their tax base usually is heavier than it is in areas where the demand for such public services as sewage maintenance, street lighting, fire and policy protection is low.

In the attempt to equalize the costs of maintaining schools, States are urged to recognize those non-educational expenses, for example, municipal overburden, which affect local tax burdens.

IV. An equal educational opportunity implies an equalization of educational resources among school districts. In order to equalize resources among districts, two alternatives are available:

(1) Reduce educational funds from some districts to raise the resource level for others, or

(2) Provide substantially increased funds to raise the poorer districts' resources up to a level enjoyed by the more affluent systems.

The later is obviously preferrable.

> No school district should be compelled to reduce its level of expenditure while a State moves toward assuming its full role in financing and distributing educational funds.

> The equalization level is a matter to be determined by each State. However, it is recommended that the 65th percentile level of per-pupil expenditures be the minimum standard guaranteed by each State.

V. Equality does not mean identical treatment. The crucial value to be fostered by a system of public education is the opportunity to succeed, not the uniformity of success. While all are equal under the law, nature and other circumstances yield advantages to some, while handicapping others. Hence, as the President's Commission suggested, "To offer children only equal education, disregarding differences in their circumstances is merely to maintain or perhaps even to magnify the relative effects of advantage and handicap. Equal treatment of unequals does not produce equality."

A concept of equal educational opportunity should reflect a sensitivity to differentials in costs and variations in the interests and needs of those to be educated. Attempts at relieving disparities by attending to their differences will prove fruitless, however, unless those needs and costs can be clearly identified and fully quantified.

> We support the recommendation of the President's Commission on School Finance which calls upon the States to develop both a Cost-of-Education Index and an Educational Need Index.

VI. Although it is an accepted principle that the responsibility for education is primarily reserved to the States, no level of government -- federal, state or local -- can escape involvement in the educational process. The acceleration of change in American society, the vast mobility of its people, and the extent to which gross disparities in education can reflect adversely on the quality of an individual's life, have combined to make education a matter of concern extending beyond the boundaries of the several States. For the States to play a full role in the distribution of funds for elementary and secondary education, substantial tax increases will be necessary. Many surveys have concluded that the average State would be required to increase its revenue collections by more than thirty percent if it wished to assume ninety percent of the cost of public elementary and secondary education. Yet, the federal tax structure severely impedes the capacity of the States to develop revenues at a rate sufficient to meet increasing educational costs.

> The National Legislative Conference recommends that the federal government substantially increase its level of financial assistance (presently at seven percent) for public elementary and secondary education.
>
> Increased federal funding should serve the purpose of assisting the States toward greater equalization of resources.
>
> Federal assistance should take the form of block grants for education, designed to promote equalization, but should remain otherwise unrestricted.
>
> With respect to P.L. 874 funds, if they are not considered in a school district's ability to pay, any attempt by the State to provide equalization may be distorted. Accordingly, we urge Congress to give consideration to allowing those funds to count as local school district contributions.

VII. Federal assistance is necessary to maintain certain operating programs in elementary and secondary education. However, even with federal assistance, many worthwhile educational programs are delayed or even eliminated because of the uncertainty surrounding the amount and timing of federal appropriations. Adequate foreknowledge of the amount of federal assistance is imperative if States are to properly structure their own appropriations and tax policy. Many educators feel they would rather not have the funds than not be able to depend on their timely authorization.

> In full endorsement of the recommendation of the President's Commission on School Finance, we urge the enactment of federal legislation that would guarantee to state and local school systems, in the event of delays in federal outlays, eighty percent of the funds provided in the previous year.

> We strongly urge the Congress to restructure its appropriation process so that school districts know well in advance of a school year the exact amount of their federal aid.

VIII. If the States are to assume a more active role in public education, especially in the realm of funding, and if they are to expect the necessary flexibility in federal assistance, States must demonstrate their ability to appropriate additional funds in an efficient manner.

> Each State should review its governance of education, the relationship of state departments and local districts, and the present and potential effectiveness and accountability of the Department of Education, in order to insure the efficient flow of both State and federal revenue and to guarantee that funds, be they State or federal, are applied for the purposes intended.

IX. The argument is made that a greater assumption of school financing responsibilities by the State will undermine, or perhaps even destroy, the tradition of local control of education. We believe that local control is not dependent on local tax raising ability. Local school districts are the creation of and responsibility of the State. Their authority to raise funds for education comes as a result of delegation by the State of part of its own taxing authority.

There is a distinction between local fiscal control and local control over policy. Local fiscal control is no longer a possibility if financial discrimination is to be terminated in public education. Insistence upon financial control over education by the State in order to eliminate fiscal discrimination in no way has to interfere with continued local administrative and policy control of the schools. On the contrary, the new standard of school finance encouraged by Serrano suggests that for the first time "poor" school districts will enjoy significant local control over educational policy which the lack of resources has previously made impossible.

Evidence fails to demonstrate any correlation between an increase in the State assumption of educational costs and loss of local decision-making authority. If anything, the evidence suggests that local decision-making power to shape the content of local educational programs is enhanced once local boards are freed of the burden of searching for the necessary resources.

> Regardless of how the States decide to finance their system of public education, they can and should leave policy decisions and administrative control in the hands of local districts. It is the State's obligation to insure that a basic educational package is delivered to all children on an equalized basis; it should be the local district's prerogative to determine how that package will be delivered.

X. At least 75 percent of current operating expenditures in education go into teachers' salaries and salaries of other employees. Because of the fiscal magnitude of this portion of educational costs, increased State responsibility in this area will be necessary.

> The National Legislative Conference recommends that as an essential corollary to state assumption of the fiscal responsibility for public education, the State should play a larger role in the determination of teacher salary schedules.

XI. The issue of school finance reform is only in the initial stages of debate. It is certain that reform will not come overnight -- and may not come at all unless there is an ongoing effort of concerned organizations and interest groups to educate both the public and elected officials about the crisis facing us.

> In this regard, we wish to express our agreement with the general policy statement on Educational Finance Reform adopted by the National Governors' Conference. In particular, we endorse its two major recommendations calling for immediate action from the States toward equalizing educational opportunities and urging assumption by the federal government of far greater responsibility for the financing of education.

XII. The next session of Congress promises to be a critical one for the future of public education in the United States. All of the major funding bills for elementary and secondary education will be up for review. The National Legislative Conference looks forward to working together with other concerned organizations, such as the Governors' Conference and the Education Commission of the States, to press Congress for financial assistance to help States meet their responsibilities in public education.

> The Special Committee on School Finance recognizes that its task is not completed upon submission of this Report. The Committee should continue to function in order to encourage the implementation of those recommendations agreed upon by the National Legislative Conference and to attend to the ongoing developments in the field of school finance reform. It should also expand its lobbying efforts with Congress and State Legislative Leaders and increase its public relations efforts to that end.

* * * * * * * *

The National Legislative Conference has offered the preceding recommendations on school finance with an awareness that reform of the manner in which educational revenues are levied and spent is a necessary but not sufficient condition for the realization of the societal goals we have established. While there is much to commend in our education system, a great deal of work remains to be done before the promise of quality education is fulfilled. We are faced with a tremendous challenge and a great opportunity, for there is no more important business in an open, democratic society than the education of our young.

NATIONAL LEGISLATIVE CONFERENCE
SPECIAL COMMITTEE ON SCHOOL FINANCE
- 1972 -

Appointed by Representative Bill Clayton, Chairman, Intergovernmental Relations Committee

Senator Thomas Laverne, New York - Chairman
Assemblyman William Bagley, California
Senator Ernest Dean, Utah
Senator Allen Dines, Colorado
Senator Carl F. Dodge, Nevada
Senator Wayne Dumont, Jr., New Jersey
Speaker Herbert Fineman, Pennsylvania
Senator Joseph C. Harder, Kansas
Senator Jack Hightower, Texas
Representative Tom Jensen, Tennessee
Speaker Charles Kurfess, Ohio
Senator Gene Mammenga, Minnesota
Speaker William R. Ratchford, Connecticut
Representative Martin Sabo, Minnesota
Representative Ralph Turlington, Florida

EDUCATION POLICY POSITIONS
ADOPTED BY THE
NATIONAL LEGISLATIVE CONFERENCE

Annual Meeting
August 10, 1973

NATIONAL LEGISLATIVE CONFERENCE EDUCATION TASK FORCE MEMBERS:

- 1973 -

Speaker Martin Sabo, Minnesota -- Chairman
Representative Irvin Anderson, Minnesota
Assemblyman William Bagley, California
Representative John Bragg, Tennessee
Senator Gilbert Bursley, Michigan
Senator Ernest Dean, Utah
Senator Carl F. Dodge, Nevada
Senator Wayne Dumont, Jr., New Jersey
Representative Anthony S. Earl, Wisconsin
Representative Herbert Fineman, Pennsylvania
Representative Joe C. Hanna, Texas
Senator Joseph C. Harder, Kansas
Senator Jack Hightower, Texas
Representative Howard M. Klebanoff, Connecticut
Thomas Laverne, New York, Member Ex-officio
Representative Norman A. Murdock, Ohio

[illegible] [illegible] SCHOOL FINANCE POLICY POSITION

The U. S. Supreme Court ruled that disparities in school finance systems resulting mainly from local property tax variations do not violate the U.S. Constitution. The Court's decision, however, in no way nullifies any of the reforms in education finance which have taken place. Moreover, in the Court's own words, its action is "not to be viewed as placing its judicial imprimature on the status quo."

Most State Constitutions, unlike the Federal Constitution, guarantee the right to an education. At the present time, many state school finance systems have been challenged as discriminatory based on state equal protection guarantees quite similar to the one found in the Fourteenth Amendment of the U. S. Constitution. State Supreme Courts in California, New Jersey and Michigan have already struck down their respective states' school finance systems due to their overreliance on local property wealth. The trend will undoubtedly continue.

The Intergovernmental Relations Committee of the National Legislative Conference feels that the states' responsibility for assuring quality education and equal educational opportunities for all children cannot be met so long as our public schools rely primarily on unequalized local taxation for funding. The Intergovernmental Relations Committee reaffirms its belief that the quality of a child's public education should not be determined by local wealth and that this principle is reasonable and equitable and ought to serve as the policy objective for all the States.

FEDERAL AID TO EDUCATION

The Better Schools Act of 1973, otherwise known as education special revenue sharing, has been abandoned by the Administration during the 93rd Congress. Nevertheless, evidence indicates that in June, 1973, the Administration will fund only those programs which it wanted continued under the Better Schools Act and will not fund programs which were not incorporated under that act. This could mean there would be no federal funds in support of school, college or public libraries, no funds to strengthen State Departments of Education, and no funds for school districts impacted by category "B" children, i.e., those whose parents work on federal property but live in private residences.

The Intergovernmental Relations Committee of the National Legislative Conference strongly opposes any attempt by the Administration to reduce federal spending for education programs. While we feel that existing education funding structures can be improved and simplified, we are not willing to trade a change in form for a reduction in revenue. The Intergovernmental Relations Committee supports the enactment of a continuing resolution allocating specific funding levels for federal education programs until a final appropriations bill can be enacted. These funding levels, at the very least, should not fall below the FY 73 appropriations.

Senator MONDALE. I think Senator Harder is going to address himself primarily to the impact aid point.

Mr. HARDER. That is correct.

Senator MONDALE. That will be the issue the other panel will be addressing itself to. I thought maybe I could just ask a few questions of you, Mr. Sabo, and then return to Senator Harder.

I agree with everything that the Conference is saying, and, more than that, I commend the Conference for having the courage to move out ahead of the courts and declare as a matter of social policy and equity the proposition that the courts are seeking to enforce through the laws.

I think that is a unique position. In this case Government is actually moving before the courts require movement.

Secondly, I think we would all agree that our present Federal aid programs ought to be looked at to determine how they can be streamlined, modernizzed, and consolidated where it makes sense. My personal opinion is that there is no standard formula that settles that issue; that we just ought to sort of agree together where consolidation is possible, and where it is not, because there is a shared national as well as State and local interests that we have to reconcile here.

Each time I go home and talk to educators I hear about the irresponsible way in which Congress appropriates money for education, now compounded I think by the even greater irresponsibility of the executive in impounding money.

Of course the net effect even when the money arrives, if it does arrive, is to devalue it. I think we would devalue the education dollar substantially when it comes to education because it is uncertain, it arrives late, and every school administrator tells me because of that they try to put Federal aid money in sort of a what you might call soft status and used for things which can go if necessary, and use State and local moneys for essential things. This means that the Federal money is not diminishing in proportion but the way in which we do it it diminishes further the value of the money toward educating our children.

Several of us are trying to get 1-year advance funding. It must be very difficult for the State legislatures to put their budgets together not knowing what they are going to get for federal aid, particularly in light of these impoundments practices. So I have no real argument with anything the Conference has said. As a matter of fact, it has been very helpful to us. I believe I have no questions.

I introduced a bill—I think you are familiar with it—on general aid to education. If the Conference gets a chance, I would like the Conference to look at that and react to it.

Secondly, I am working on a temporary measure dealing with this change in the title I formula where a lot of rural communities, I think suburban communities as well, are losing substantial amounts of money under the changes since this formula.

Do you have a reaction to that problem? Can you suggest what we might do there?

Mr. SABO. Let me react, if I might, first to having the bill and substantially changing the Federal role in funding elementary and secondary education.

There is a basic commitment on the part of the National Legislative Conference to continue dialog and discussion with the education office and the Governor's conference to try to arrive at conventions and to be as helpful as we can to the Congress in the years ahead as they move to revise the Federal participation in education funding. We offer our fullest cooperation in trying to be helpful in the years ahead.

I think too often we have been derelict in our duty in sitting down and trying to arrive at common State positions and supplying some information and knowledge that we have at State levels to Congress. We intend to change that and work very hard at that in years ahead and try to be helpful to you.

Senator MONDALE. I think one thing I did not find in your statement that might be mentioned is that the level of Federal support for education generally is abyssmal if you compare it with what local governments have done in the last 10 years and what State governments have done.

We have been very negligent, it seems to me, in the Federal role in trying to help you meet your responsibilities.

Mr. SABO. I think once a level of funding remains static, that, in effect, is a decrease rather than a static situation because obviously costs go up. As a matter of fact, if funds remain level and the same program is continued, that means it requires State and local effort to maintain that same program.

Relating to your other question in terms of funding by the change in 1970 level, no matter whether we have adopted any particular position as an organization, I would only comment that my experience in the legislature is that we generally find we have need to put hold harmless provisions in legislation where it creates a good deal of disruption in local school districts or other local units of government that simply are not acceptable.

Mr. HARDER. May I respond to the question, Senator?

Senator MONDALE. Certainly.

Mr. HARDER. As a typical illustration, the amount of money that the Federal Congress has appropriated for the school lunch program has gone down while the cost of food has risen remarkably, as we all know. I use that as a classic illustration of not keeping pace with costs.

As a consequence of course we have to absorb these costs, either the State has to absorb them, but certainly somebody must absorb them.

Senator MONDALE. As you know, this committee does not have jurisdiction over the school lunch program.

Mr. HARDER. Yes, Senator; I use that just as an illustration.

Senator MONDALE. We are all very interested in this, and we ought to have a substantial new bill to try to make up for some of those cost differences.

Regretfully I have to leave.

[Senator Pell assumed the chair.]

Senator PELL. Thank you very much, Senator Mondale.

Mr. Harder, we have your printed testimony.

Mr. HARDER. Thank you, Senator. I appreciate this opportunity. I shall not read the statement that I have presented, and I will try to summarize it very briefly to point out some of the problems that we are having in Kansas in relation to impact.

Senator PELL. Your full statement will appear in the record at the conclusion of your testimony.

STATEMENT OF HON. JOSEPH C. HARDER, STATE SENATOR OF THE STATE OF KANSAS

Mr. HARDER. Kansas was under a court mandate to change its method of financing public education. A joint committee composed of members of both political parties worked diligently exploring about every avenue possible to keep up with a formula that would equalize educational opportunities in the State of Kansas to meet the court test of Caldwell.

They finally after exploring all avenues have adopted what we call the equalizing concept. It is working very well. Statistics show about 89 percent of the school districts fall into this local effort, between 20 and 30 mills, and so we do think we have accomplished a very great deal in equalization.

Every school district must make a local minimum effort, and that is set by statute, toward raising its budget. When the budgets are set each school district must raise 1½ percent of its local wealth in funding that budget. If that is not funded, the State makes up the difference. If 1½ percent of the local wealth is funded, then no State aid is received.

Of course there are some deductions that are involved, and one of them of course we did use under Public Law 874 which we considered to be a local resource in the computation of State aid. Here is precisely what happened. I think I could best illustrate with this example. Junction City, which educates the majority of children from the military base at Fort Riley, has a budget of a little over $2 million. It receives about $1.5 million from Public Law 874, and the local property tax generates about three-quarters of a million, but if the Public Law 874 cannot be considered as a local resource, Junction City would have no tax levy whatsoever, and they would indeed have $766,000 plus more than they can legally budget and extend.

Then we have another district which, of course, is also a military base, Fort Leavenworth, and it is located on the military base, and it has approximately 2,600 students. If Public Law 874 funds are indeed withheld, the school cannot operate past December 1 of this year, because there happens to be no property tax base which can be taxed, it being government property—military property.

So I would submit to you it is absolutely impossible to have an equalization formula relating to school finances without taking into account and consideration the effect of Public Law 874.

I would suggest to you, Mr. Chairman, that the rules and guidelines of the statutes be changed so that Public Law 874 funds could be considered a local resource.

Senator PELL. I am not sure that I fully understand that. In fact, I know that I do not.

You share with North Dakota and some other states this same problem, but let us use this Junction City example which you have on page 4 of your prepared statement.

You say you have general aid in your budget that comes directly from the State in the amount of $2,334,152. What you are saying is that has to be deducted from the general State aid?

Mr. HARDER. It is not deducted from the general State aid.

Senator PELL. It is added to it.

Mr. HARDER. It is in addition to it; that is correct.

Senator PELL. So you have $2 million plus $1.5 million, then you have a property tax levy of $782,000.

Mr. HARDER. That is correct.

Senator PELL. What is the problem?

Mr. HARDER. The problem is if you withhold the $1.5 million. In Junction City they are category A students. They are being withheld because of the way the equalization formula is written in Kansas.

We received a phone call yesterday from HEW, and I understand the letter is being written today, that they are withholding all Public Law 874 funds because of the way the formula is written, because they maintain we use it as a deduction. They would receive less State aid or no State aid at all because Federal aid would be taking its place, and this is the case.

They are, as you can see from this example, getting over $2 million in State aid, but we are adding to that Public Law 874 funds to fund this $5 million budget, and with local effort, which is the local property tax they are getting $782,000 from that source to fund their budget.

You see they are not being discriminated against just because they are getting Public Law 874 funds. I submit to you I do not think we can equalize without taking that into account.

Senator PELL. In other words, the law should be changed so this amount would not be deducted.

Mr. HARDER. That is correct. I would like to see it changed so that it could be considered as a local resource, because actually Public Law 874 funds are paid in lieu of taxes, and they should be considered as a tax source or equivalent to that. As a consequence it becomes a local resource. State education would then be predicated upon the wealth of that district, and I would submit to you I do not believe the school districts are being discriminated against at all.

If we cannot do this, they would have no local mill levy, and there are several school districts like that in our State, which certainly disequalizes. Eighty-five to 90 percent of the school districts do indeed make very close if not similar efforts in their taxes.

Senator PELL. This is an acute problem, and I will have the staff set this forth for the members of the committee so we can all more fully understand it.

Senator Hathaway.

Senator HATHAWAY. I do not have any questions at this time.

Senator PELL. I think I will wait until the rest of the panel testifies on impact aid in general and then I will have some questions. We appreciate your special problem, and we will do what we can.

Mr. HARDER. Thank you very much. I appreciate the opportunity to appear before you this morning.

Senator PELL. Senator Stafford.

Senator STAFFORD. Thank you, Mr. Chairman. I was not here to hear the witnesses' testimony so I will not ask any questions.

Senator PELL. Thank you, Mr. Harder. Your full statement will be put in the record, and great care will be devoted to this particular problem which is not unique to Kansas. There are other States in the same situation, as I am sure you are aware.

Mr. HARDER. Yes.

[The information supplied by Mr. Harder follows:]

STATE OF KANSAS

JOSEPH C. HARDER
MAJORITY FLOOR LEADER
SENATOR TWENTY-FIFTH DISTRICT
MOUNDRIDGE, KANSAS 67107

TOPEKA

SENATE CHAMBER

September 14, 1973

TO: Senate Education Subcommittee
Senator Claiborne Pell, Chairman

FROM: Kansas State Senator Joseph Harder

SUBJECT: Public Law 874 Funds

I sincerely appreciate having the opportunity to appear before this committee and be here today to share my views, and to relate to you the problems we have encountered with the present federal statutes and administrative regulations concerning [illegible] P.L. 874 funds. The problem presented in this paper is not only a concern in the State of Kansas, but the Education Commission of the States and the National Legislative Co[illegible]

The details of my testimony will focus on the new Kansas school finance law because I am most familiar with it, but other states have been or undoubtedly will be confronted with the same problem that the Kansas Legislature encountered with respect to P.L. 874 funds.

Realizing that the old Kansas school finance laws did not provide for equalized tax effort or equalized educational opportunity, committees of the Kansas Legislature studied the problem for a number of years before the School District Equalization Act was enacted in 1973. During the course of these studies, several court cases have required state legislatures to provide for equalization of tax effort and educational opportunities. In Kansas, a case was filed and a district court judge ruled that Kansas laws did not conform with the state or the federal constitutions. The Kansas Attorney General evidently agreed with that ruling since it was not appealed to the Kansas Supreme Court. The judge ordered the Legislature to restructure the school finance system by July, 1973.

Kansas recognized it had an obligation to improve the financing of public schools even before the court mandated finance reform in Caldwell vs. The State of Kansas. In attempting to effect a solution, various methods were explored for financing public education. Invariably, the problem of how to deal with PL 874 moneys arose.

If the states are to be "fiscally neutral" in order to comply with standards laid down in several court decisions, including Caldwell as it affected Kansas, then the resources of school districts, including PL 874 funds, must be taken into account.

Brief Explanation of the Kansas School Finance Formula

The general state aid formula in the 1973 School District Equalization Act is based on the "district power equalizing" concept. In general, the formula in the Act is one under which a district local effort rate (LER) is prescribed by law at 1.5% for a specified or "norm" budget per pupil (BPP), as determined under a schedule which divides districts into enrollment categories selected through analysis of median operating costs per pupil at various levels of enrollment. If the BPP of a district is more or less than the amount specified in the enrollment-BPP schedule, the LER is proportionately more or less than the prescribed LER of 1.5%. The district's wealth is multiplied by its LER to determine, in part, how much the district will have to raise to finance its general fund budget. Therefore, the higher a district's BPP in relation to the specified or "norm" BPP in its enrollment category, the higher its LER and the greater its deduction based on district wealth. State aid is provided if the required local effort (district wealth times LER plus other deductions discussed below) does not produce enough revenue to finance a district's general fund budget.

More specifically, general state aid for a district is computed as follows: the district's legally authorized general fund budget minus the sum of

a. district wealth times the district LER,

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b. district receipts (if any) in the preceding school year under PL 874,

c. district's share of the 2-mill county school foundation tax levy, and

d. district's share of the intangibles tax (school districts receive 25% of this tax).

Kansas' new general state aid formula is designed to provide more state aid to districts with low "wealth" per pupil than to districts with high "wealth" per pupil (wealth is measured by adding the total equalized assessed valuation and taxable income of a school district). Districts with low "wealth" per pupil include those which have received relatively large amounts of PL 874 funds -- they have such low "wealth" mainly because of their number of federally-impacted pupils in relation to their taxable property valuation (federal property being exempt from the property tax).

If Public Law 874 receipts are not considered in the computation of state aid, some school districts would have no general fund tax levy and their revenue would exceed the amount that it is possible for them to legally budget or spend. We have listed below three Kansas school districts which receive large sums of 874 funds and the amount of the property tax levy for the 1973-74 budget. As you will notice, the amount of 874 funds received by each school district the prior year, which is considered in computing state aid, far exceeds the amount of the property tax levy. I would particularly call your attention to Lines 5 and 6. Junction City would receive over 3/4 of a million dollars in revenue that it would be unable to spend if 874 funds are not considered in the computation of state aid. This also means it would have no mill levy for the general operation of the school district. The Washburn and Derby school districts would have approximately $500,000 "excess revenue" with no general fund mill levy.

Based on 1973-74 Adopted Budgets	Junction City	Washburn	Derby
1. General fund budget adopted for 1973-74	$5,027,400	$2,334,152	$4,021,9

Based on 1973-74 Adopted Budgets	Junction City	Washburn	Derby
2. Estimated general state aid in budget, 1973-74	$2,200,532	$ 784,020	$2,146,839
3. PL 874 receipts, 1972-73, deducted in computing general state aid	1,549,512	902,564	947,875
4. Property tax levy for general fund in 1973-74 budget	782,876	404,878	451,630
5. Property tax levy if PL 874 not deducted	0	0	0
6. Revenue in excess of general fund budget if PL 874 not deducted	766,616	497,686	496,242

Other districts with comparable enrollments and budgets per pupil, but which receive relatively little or no PL 874 funds, have general fund tax rates ranging from 20 to 30 mills.

The new Kansas school equalization formula provided a considerable amount of property tax relief for many school districts throughout the state. Taxpayers in the three school districts listed below, which received large sums of 874 funds, also received a reduction in property tax for general operating purposes.

	1972 General and County Foundation Rate	1973 General and County Foundation Rate	Amount of Reduction
Junction City	25.26 mills	21.43 mills	- 3.83 mills
Derby	32.29	17.74	-15.55
Washburn	35.91	23.71	-12.20

The Junction City School District will receive 65% of its general fund budget from state and PL 874 aid. Washburn school district will receive 59% and Derby will receive 72% from those two sources.

The Kansas Legislature has enacted a new school finance law which is designed to improve equalization of local tax effort and of expenditures per pupil. There certainly was no intention to discriminate against districts which have received PL 874 funds, as indicated by the above figures. On the contrary, discrimination would result if PL 874 funds were not taken into account in the new general state aid formula. In one sense under the plan, the state is oblivious to the PL 874 Program just as it is to the "wealth" of any individual district. The plan provides for full funding of a school district's legally adopted general fund budget. That budget, subject to certain constraints, is determined locally. To the extent that a district's resources for funding this budget increase or decrease, the state would provide more or less aid, in the amount necessary for full funding of the district's budget.

During the hearings on the new Kansas school finance law, no one representing any of the districts which receive PL 874 funds appeared before the committees to object to the way such funds are treated in the new law.

The district court judge who struck down the old Kansas school finance laws reviewed the 1973 Equalization Act and ruled that it established a constitutional finance system.

I cannot overemphasize the urgent need to change the federal law so as to permit states to take PL 874 funds into account in an equalization formula. For example, one Kansas school district which receives a very large sum under Public Law 874 probably will run out of operating cash by December 1 if PL 874 funds for FY 1974 are not distributed by then.

Mr. Justice Powell, at the conclusion of the U. S. Supreme Court's majority opinion in Rodriguez, said:

> *The consideration and initiation of fundamental reforms with respect to state taxation and education are matters reserved for the legislative processes of the various States, and we do no violence to the values of federalism and separation of powers by staying our hand. We hardly need add that this Court's action today is not to be viewed as placing its judicial imprimatur on the status quo. The need is apparent for reform in tax systems which may well have relied too long and too*

> *heavily on the local property tax.* ***And certainly innovative new thinking as to public education, its methods and its funding, is necessary to assure both a higher level of quality and greater uniformity of opportunity.*** *These matters merit the continued attention of the scholars who already have contributed much by their challenges.* ***But the ultimate solutions must come from the lawmakers and from the democratic pressures of those who elect them.***" (emphasis added)

To achieve greater equalization of local tax effort and educational opportunity, lawmakers in Kansas and certain other states have concluded that Public Law 874 funds must be taken into account as part of the financial resources of school districts which receive such funds. Section 5(d)(2) of PL 81-874 is a serious impediment to the current efforts of the states to achieve greater equalization. The Congress should keep in mind what Justice Powell said in the above quoted excerpt and should, therefore, remove federally-imposed restrictions on the taking into account of PL 874 funds in state school finance equalization laws.

I will be glad to try to answer any questions you may have concerning this problem.

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STATE OF KANSAS
TOPEKA
SENATE CHAMBER

JOSEPH C. HARDER
MAJORITY FLOOR LEADER
SENATOR TWENTY-SIXTH DISTRICT
MOUNDRIDGE, KANSAS 67107

COMMITTEE ASSIGNMENTS
CHAIRMAN: EDUCATION
JOINT COMMITTEE ON SCHOOL FINANCE
VICE CHAIRMAN: ORGANIZATION, CALENDAR AND RULES
MEMBER: INTERSTATE COOPERATION COMMISSION
LEGISLATIVE COORDINATING COUNCIL
LEGISLATIVE SERVICES AND FACILITIES
WAYS AND MEANS

September 18, 1973

Senator Claiborne Pell
Senate Office Building
Room 325
Washington, D.C. 20510

Dear Senator Pell:

I would like to thank your subcommittee on education for having given me the opportunity to appear before them to discuss the problems Kansas has encountered concerning Section 5(d)(2) of the Federal Impact Aid Law.

As you will recall, Kansas has been notified by HEW that we will not receive any P.L. 874 funds for fiscal 1974.

The Kansas Legislature was required under a court mandate to enact a new School Equalization Law by July 1, 1973. The Legislature during the 1973 session adopted a new finance plan which increased the general state aid appropriation by approximately $67 million. The court has reviewed the new finance law and found it in compliance with the state constitution.

It was the intent of the Kansas Legislature to significantly equalize local tax effort and educational opportunity based on the general operating budget per pupil for all school districts. Listed below is an example of how state aid is computed for a Kansas school district.

1.	Adopted General Fund Budget			$728,000
2.	1.5% X (Local Wealth*) $10,000,000	=	$150,000	
3.	Intangible Tax Receipts	=	10,000	
4.	County School Foundation Receipts	=	20,000	
5.	P.L. 874 Receipts (Prior Year)	=	58,000	
6.	Total amount of Local Receipts			238,000
7.	Total State Aid			$490,000

*Sum of equalized property valuation and taxable income

As you will notice from the example on the preceding page, if P.L. 874 receipts are not considered as local revenue, districts which receive such funds will have more money to spend and lower taxes then comparable districts who do not receive these funds.

If Public Law 874 receipts are not considered in the computation of state aid, some school districts would have no general fund tax levy and their revenue would exceed the amount that it is possible for them to legally budget or spend.

I cannot overemphasize the urgent need to change the federal law so as to permit states to take P.L. 874 funds into account in an equalization formula. For example, one Kansas school district which receives a large sum under Public Law 874 probably will run out of operating cash by December 1 if P.L. 874 funds for FY 1974 are not distributed by that date.

Sincerely,

Joseph C. Harder
Senator

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JOSEPH C. HARDER
MAJORITY FLOOR LEADER
SENATOR TWENTY-FIFTH DISTRICT
MOUNDRIDGE, KANSAS 67107

TOPEKA

SENATE CHAMBER

CHAIRMAN: [illegible]
JOINT COMMITTEE ON SCHOOL FINANCE
VICE-CHAIRMAN: ORGANIZATION, CALENDAR AND RULES
MEMBER: INTERSTATE COOPERATION COMMISSION
LEGISLATIVE COORDINATING COUNCIL
LEGISLATIVE SERVICES AND FACILITIES
WAYS AND MEANS

July 19, 1973

The Honorable Carl D. Perkins
House of Representatives
Washington, D. C. 20515

Dear Mr. Perkins:

Following the onslaught of Serrano, Rodriquez, Hatfield, Caldwell and numerous other court decisions, states became more aware of their responsibility for financing public schools. Notwithstanding the United States Supreme Court's decision in the Rodriquez Case it still appears to be evident that states cannot abrogate their responsibility for providing the funds to assure equal educational opportunity among their public schools. To equalize educational opportunities and to make available quality educational programs in each school district will almost without exception require a complete review of the method of financing public education.

Because Kansas recognized it had an obligation to improve the financing of public schools even before the court mandated finance reform in (Caldwell vs. the State of Kansas), the Legislature appointed a special committee to study the problems. In attempting to effect a solution the committee explored various methods for financing public education. Invariably the committee was faced with the problem of how to deal with PL 874 moneys.

If the states are to be "fiscally neutral" in order to comply with standards laid down in several court decisions including Caldwell as it affected Kansas then the resources of school districts must be taken into account.

The special committee that worked on a new school finance plan recognized that deduction of PL 874 receipts had been voided in 1968 by the United States District Court in (Hergenreter vs. Hayden). This case arose under the old Kansas school foundation finance law which was repealed by the enactment of Sub. S.B. 92 in 1973. The committee designed the new law to be much more equalizing than the old law by requiring districts in specific enrollment categories to have a similar "local effort rate" in order to spend comparable amounts per pupil. To accomplish this purpose, the committee firmly believed that PL 874 funds had to be taken into account in order to avoid serious disequalizing effects in certain cases.

For example, it was estimated that three of the Kansas school districts which have received substantial amounts of PL 874 funds would have no, or possibly a very small, general fund tax levy under Sub. S.B. 92 if PL 874 funds were not considered as a district revenue resource. Other districts comparable in enrollment and in certain other ways would have general funds tax rates of 18 to 20 mills or more on an equalized valuation basis.

The old Kansas school finance system, i.e., before enactment of Sub. S.B. 92, was held unconstitutional on both federal and state constitutional grounds (Caldwell vs. Kansas). Among other things, the court was critical of the wide disparities in tax rates among school districts. In its effort to fashion a new finance system, the legislators who did most of the work on Sub. S.B. 92 were convinced that they could not justify a situation where a district would have no general fund tax levy or a very small one, simply because the district received PL 874 funds, and still be entitled to spend as much or more per pupil as comparable districts not receiving such funds.

Kansas' general state aid formula is designed to provide more state aid to districts with low "wealth" per pupil than to districts with high "wealth" per pupil (wealth is measured by adding the total equalized assessed valuation and taxable income of a school district). Districts with low "wealth" per pupil include those which have received relatively large amounts of PL 874 funds -- they have such low "wealth" mainly because of their number of federally-impacted pupils in relation to their taxable property valuation (federal property being exempt from the property tax).

To demonstrate the points made above, consider three school districts which have received relatively large amounts of PL 874 funds. Even with such funds considered as a district revenue resource under Sub. S. B. 92, the May 23 computer

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application of [illegible] general state aid formula indicated the following increases in state aid in 1973-74 over actual aid in 1972-73 under present law:

Junction City	$ 892,773
Derby	$1,094,416
Washburn	$ 434,429

The state-wide average ratio of total general state aid to the total general fund budgets of all districts is tentatively estimated at 43% for 1973-74, under Sub. S.B. 92. For the three districts, the estimated state aid-to-budget ratio is:

Junction City	54%
Derby	60%
Washburn	50%

These ratios are well above the state average, even with PL 874 funds considered as a local resource.

The Kansas Legislature has enacted a new school finance law which is designed to improve equalization of local tax effort and of expenditures per pupil. There certainly was no intention to discriminate against districts which have received PL 874 funds, as indicated by the above figures. On the contrary, discrimination would result if PL 874 funds were not taken into account in the new general state aid formula. In one sense under the plan, the state is oblivious to the PL 874 program just as it is to the "wealth" of any individual district. The plan provides for full funding of a school district's legally adopted general fund budget. That budget, subject to certain contraints, is determined locally. To the extent that a district's resources for funding this budget increase or decrease, the state would provide more or less aid, in the amount necessary for full funding of the district's budget.

During the hearings on Sub. S.B. 92, no one representing any of the districts which receive PL 874 funds appeared before the committees to object to the way such funds are treated in the new law.

Because of the guidelines and interpretations the Federal Government has used regarding PL 874 money, I am requesting that your committee review congressional policy concerning certain aspects of the PL 874 program.

As I have indicated on many occasions, present requirements and constraints of this program have the effect of impeding the efforts of some states in developing equitable school finance plans. As an example, state school finance plans which propose a power equalizing concept involving some mixture of local taxing effort and state aid clearly are distorted by the prevailing laws, regulations, and judicial decisions relative to PL 874. Let me explain. It was the intent of Congress that PL 874 funds be provided to school districts partly to offset:

1. The impact on the school district of children of certain federal employees.

2. The revenues lost by virtue of property not being on the tax rolls. It seemed logical to impose a prohibition against reducing state aid in thosedistricts that received PL 874 funds. Put another way, the states were not to be allowed to substitute federal aid for state aid. Such a requirement was particularly appropriate at a time when there was little effort being made by the states in school finance to equalize among districts both local tax efforts and spending levels.

The 1973 Kansas Legislature enacted a new school finance law which we refer to as a modified power equalization school finance plan. The principal element of power equalizing is to equate the taxing effort and spending authority of school districts having widely varying resources. The balancing element of such a plan is state aid.

Those who have examined the Kansas plan generally agree that if PL 874 funds of a district cannot be considered as a local resource the plan would be subject to severe distortion. In short if PL 874 had not been taken into account similar districts would be permitted to spend at similar levels but have widely varying taxing efforts.

Since PL 874 is generally considered as a kind of payment in lieu of taxes, it seems reasonable to consider such aid as being of the same general character as locally generated taxes and therefore an element of local resources. From experience in our state and others it is evident that Congress should continue PL 874 but under new guidelines. I submit the following suggestions for your consideration:

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Part A of PL 874:

1. The federal government should provide payments in lieu of taxes to help compensate school districts for property that is not on the tax rolls. Persons may both live and work on federal property and their children may attend a public school which is supported largely through property taxes generated locally.

2. The impact upon the school where large numbers of federal employees reside is reflected in increased costs. One of the purposes of impact aid should be to help compensate for this added financial burden.

3. Added costs of operation to the school district occur in districts where there is considerable transience of federal employees. The costs resulting from this unique characteristic should be recognized by the federal government.

4. Some argue that aid for Part A students should be 100% reimbursable to the district because the state and/or school district patrons should not be responsible for the education costs of children for whom there is contributed no property tax and perhaps very little income tax.

5. Since PL 874 aid has been provided in substantial amounts to many school districts of this nation for a number of consecutive years, a termination of this program would have severe consequences for many school district budgets.

Part B of PL 874:

1. Even though families in which employment is with a federal installation may live off the premises of such installation and contribute directly or indirectly to the local property tax base, federal impact aid may be justified by the fact that the place of employment, a federal installation, is not included in the local tax base. Generally valuations of residential property alone do not adequately support a school program.

2. The impact upon the school where large number of federal employees reside is reflected in increased costs. One of the purposes of impact aid should be to help compensate for this added financial burden.

3. Added costs of operation to the school district occur in districts where there is considerable transience of federal employees. The costs resulting from this unique characteristic should be recognized by the federal government.

4. Aid for Part B students should be provided to the extent that there is compensation for the property of the federal installation which is not on the tax rolls.

5. Even though Part B aid may be relatively meaningless to some districts because of the small number of pupils involved, yet it is important if, indeed, the state is responsible for equalizing educational opportunity and local effort.

Part A of PL 874 should be continued at 100% of entitlement under the present formula.

Part B might be amended to lower the entitlement per pupil, but should not be deleted. Whenever the Federal Government acquires land for Federal projects the number of acres is often substantial which leaves a taxing district, primarily schools, in the untenable position of having a diluted tax base from which to fund its budget.

It has been said that Federal Installations enhance the economy of a given area, but so long as real property is the base from which revenue for financing schools is derived, it is incumbent upon the Federal Government to fill the void it has created. The problems I have related are not unique to Kansas because every state in attempting to solve its school finance problems must come to grips with PL 874.

Yours truly,

Joseph C. Harder

Joseph C. Harder
Senator

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Senator PELL. We will now receive for the record a statement from the junior Senator from the State of Kansas, Senator Dole.

Senator DOLE.

STATEMENT OF HON. ROBERT DOLE, A U.S. SENATOR FROM THE STATE OF KANSAS

Senator DOLE. Mr. Chairman, I wish to add my support to the presentation made by Kansas State Senator Joseph Harder, chairman of the joint committee on school finance, regarding the changes needed in Public Law 874.

During the last session, the Kansas Legislature enacted a general State school aid formula designed to equalize the tax effort of the various school districts and also equalize the per pupil expenditures. The old Kansas school finance system had been declared unconstitutional on both Federal and State grounds, and the new finance system was developed to remedy the deficiencies noted by the court in the old system. Everyone seems to agree that the new Kansas equalization law is sound, progressive and farsighted. In developing the new law, every effort was made to avoid discrimination against Public Law 874 funds, but at the same time the statute had to take into consideration Public Law 874 in order for the equalization formula to be applied equitably.

The General Counsel's office at HEW yesterday informed me that the State of Kansas has been found not in compliance with provision 5(d)(2) of Public Law 874 and will not be eligible for Federal impact funds during the coming year. This ruling is based on a finding that the new State statute requires that the State take into consideration the level of Federal impact aid assistance in determining the level of State assistance which should be allocated to that jurisdiction. This is forbidden under 5(d)(2) of the existing law.

Thus Kansas faces a dilemma. It has enacted progressive legislation to comply with a recent court decision. It has attempted in every way possible to avoid conflicts with the Federal law, but yet as a result of its action the Federal Government has announced intention to cut Federal impact aid to the State which last year exceeded $7 million.

I might also add that the State assistance program in no way was a colorable effort to unload financial obligations on the Federal Government in the impacted school districts. The new Kansas law will increase the level of State assistance statewide to school districts by $67 million during the coming year. In the three largest federally impacted school districts, the percentage of State financing will still remain well above the average percentage of State assistance to other districts across the State even though Public Law 874 funds are considered as a local resource.

Everyone seems to agree that it is the Federal law which is out of step in situations involving statutes such as the one enacted in Kansas, and I trust action will be taken during your consideration of the comprehensive education legislation to remedy the problems which have developed as a result of section 5(d)(2) of Public Law 874.

I would also ask that the members of the committee keep in mind the Kansas problem and a similar situation which I believe the State of North Dakota faces, as we consider other legislation in the coming weeks. The school district located at Fort Leavenworth, Kans., is in desperate need of Federal assistance, and corrective action must be taken by November or they will face severe financial problems. I therefore intend to propose an amendment to legislation to be considered in the near future which would solve this problem in the immediate future until comprehensive legislation can be enacted.

Your assistance and understanding of this problem are appreciated, and I trust the necessary action can be taken to provide a remedy for the problems which have developed around this particular portion of the Public Law 874 program.

I am sure you have found the remarks and information provided by Mr. Harder very helpful, and please feel free to call on my office if we can provide further information regarding the Kansas situation which might be helpful in your consideration of the pending education legislation.

Senator PELL. Thank you very much, Senator Dole.

We will now receive for the record a statement from the senior Senator from the State of Kansas, Senator James Pearson.

Senator Pearson.

STATEMENT OF HON. JAMES B. PEARSON, A U.S. SENATOR FROM THE STATE OF KANSAS

Senator PEARSON. Mr. Chairman, yesterday I learned that the Office of Education will terminate all Public Law 874 funds for Kansas during fiscal year 1974. This action is due to a ruling that the recently passed Kansas School District Equalization Act violates the provisions of section 5(d)(2) of Public Law 874 as amended.

Because this section seriously deters State efforts at achieving equitable school financing, I believe that it is mandatory that we substantially alter or repeal the provisions of that section. I am currently preparing legislation, as are Senators from other affected States, which would prevent the termination of Public Law 874 funds to States which have enacted equalization formulas. I also want to urge, however, that this subcommittee consider including a measure of relief in the general education legislation now under review.

Section 5(d)(2) was enacted in Public Law 90-576. In essence, it terminates impact aid to all districts in any State which uses Federal payments in determining the level of State assistance for any district. This section was enacted with good intentions. Prior to its passage, many States had reduced State aid by an amount equal to all or part of Public Law 874 payments. This action was counterproductive to the purpose of the Public Law 874; namely, the effort by the Federal Government to compensate school districts with substantial Federal activity which did not receive the benefits of the tax base associated with that activity.

Recent events, however, have placed section 5(d)(2) in a totally new perspective. Pursuant to court cases mandating school financing equalization, many States have passed laws which include Public Law 874 funds in computations intended to yield more equal State payments. In Kansas, for example, *Caldwell v. Kansas* held that the State School Foundation Act violated the equal protection guarantees of both the Kansas Constitution and the 14th amendment to the United States Constitution. Holding that the Kansas system of school finance caused education to be adequate or inadequate by "the caprice of the wealth or local tax base within a district," the Court restrained and enjoined the operation of the existing school financing scheme and prohibited the allocation of funds on the basis of existing law. Further, the Court ordered the State to reallocate the funds available for financial support of the school system in a manner which did not violate the required equal protection of the law.

Reacting to this mandate, Kansas enacted a School District Equalization Act in the form of Senate bill No. 92, during the past session of the Kansas Legislature. For present purposes the most important aspect of this bill is that it creates a power equalizing formula, designed to provide more aid to districts with low "wealth" per pupil than to districts with higher "wealth" per pupil. Wealth, however, is a factor of local effort: State aid is provided if the required local effort does not produce enough revenue to finance a district's general fund budget. This formula, albeit simplified for present purposes, considers Public Law 874 receipts a part of local effort, just as are the district's share of the 2-mill county school foundation tax levy, the district's share of an intangible tax, and a factor represented by district wealth times the district local effort rate.

Because Public Law 874 receipts are counted as local effort, districts with substantial Public Law 874 funds receive more under the school equalizing formula than they would without this type of computation. Consider three school districts which have received relatively large amounts of Public Law 874 funds. Even with such funds computed as district revenue resources, the final computer application of the general State aid formula indicated the following increases in State aid for 1973–74 over actual aid in the past year under the prior law:

Junction City, $1,006,812; Derby, $1,136,705; and Washburn, $510,296.

To sharpen the analysis of this situation, the Kansas legislative research department estimates that these same districts would have no general fund tax levy if Public Law 874 funds were not considered as district revenue resources.

These figures indicate that the spirit of section 5(d)(2) is not being violated. The State is not offsetting Federal payments against State aid. Rather, a serious attempt is made to evaluate the financial capabilities of local school districts and to achieve an equitable means of distributing State funds. I feel that penalizing the entire State, by forcing compliance with the provisions of section 5(d)(2), is not only inequitable, but also places the State, which is attempting to comply with the court order, in an untenable position.

I believe that Kansas has enacted a new school finance law which is designed to improve the equalization of local tax efforts and of expenditures per pupil. There was no intention to discriminate against districts which receive Public Law 874 funds, and to continue enforcement of section 5(d)(2) would seriously undermine this effort.

One other problem results from literal enforcement of section 5(d)(2). The Fort Leavenworth, Kans., school district is located on Federal property and serves 100 percent Federal 3–A pupils. There are no local pupils and there are no local resources to support this district. In recognition of this fact, the Kansas Legislature exempted the school district from the provisions of the school equalizing formula, and provided it with a direct appropriation of $700,000 from the State general fund. Nonetheless, because of the wording of section 5(4)(2), the entire State is precluded from receiving State aid if Public Law 874 funds are included in the computation of the level of State aid for any one district. This action will cause the Fort Leavenworth district to terminate operations—its resources are totally inadequate without Public Law 874 funding.

Mr. Chairman, as early as 1969, the Batelle Memorial Institute, in its study of school assistance in federally affected areas, found that the "effects of the prohibition against offsetting of Public Law 874 payments tend to reduce the effectiveness of attempts by the States to provide relatively equal education opportunities with limited State funds and to discourage States without equalization formulas from adopting them." The prediction has now come true. It is complicated by the immediate termination of Federal aid in Kansas, North Dakota, and the potential termination in other States.

I believe that an emergency exists, and that action must be taken now. Mr. Chairman, in December 1971, I called for new approaches to the financing of education. This is an opportunity to start. In the process, we can avert potentially disastrous consequences in Kansas and other States which have made good faith efforts to achieve school financing equalization.

Senator PELL. Our next witness is Dr. Fred Burke who is commissioner of education of the State of Rhode Island. Dr. Burke, please proceed.

STATEMENT OF DR. FRED G. BURKE, COMMISSIONER OF EDUCATION, STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Mr. BURKE. Thank you very much, Mr. Chairman.

Mr. Chairman, members of the committee, I am Fred G. Burke, commissioner of education in Rhode Island, speaking as an education administrator.

It is my understanding that the committee wishes to confine its discussions today to Public Law 81-874, Financial Assistance for Local Educational Agencies in Areas Affected by Federal Activities Act and I will so address my remarks.

I want to thank you for this opportunity to share with you some of my thoughts on the dilemma being faced by local school officials, municipal officers, and chief State school officers in coping with the prospective alterations in Public Law 874 support funds.

In 1950, with passage of this far-reaching legislation, the Federal Government entered into a partnership with those local school districts affected by Federal installations within their jurisdictions. Over the years, the commitment of the Federal Government to support those burdened most has been fulfilled. Public Law 874 is significant in that it is the second largest federally funded program for elementary/secondary education. This sharing of the support among Federal, State, and local entities has provided the basis upon which the promise of equal educational opportunity could be guaranteed. If that sharing of support were to be withdrawn now, we would be transferring a burden to municipalities, ill-equipped in most cases.

to raise the funds necessary to maintain the level of education they had previously offered—and educational service whose budget is predicated upon Federal support funds.

Let me talk a little about one State with which I am familiar which has a fairly clear understanding now of what a reduction in impact aid could mean to several of its school districts and to the State budget, as well. There is a parallel between the situation which exists due to base closings and that which occurs with an immediate reduction of funds.

Rhode Island is feeling the crunch already because of the closing of naval installations. Those four school districts affected, as well as several State offices, are analyzing the effect on educational programs because of the expected rollback of Public Law 874 funds in Rhode Island.

These communities are anticipating a reduction of impact aid moneys coupled with an anticipated decrease in local property values as families transfer out of the community and businesses tend to close down. As Federal support for education decreases, then, there will be corresponding shifts to State and local tax moneys to pick up these educational costs. We can see this happening. The burden will fall most heavily on the local communities. A survey conducted in one town in Rhode Island indicated that currently local tax revenues contribute approximately 40 percent to the support of operating its schools, while the Federal Government shares at a level of 17 percent and the State at about 40 percent. A reduction in Federal impact funds, and the estimate is downward to 5 percent, would force the local share up to 55 percent while the State's share would be stabilized at about 35–40 percent according to our formula. The real tragedy of this readjustment, forcing the local community to assume a greater share of education expenditure, is that it occurs at the same time that the community is feeling the most severe impact of the base closings. So these effects are compounded.

In a 1970 study by John E. Lynch, entitled Local Economic Developments After Military Base Closures, it was specifically pointed out that the "current Public Law 874 standards are so structured that the affected community will actually lose its Federal impact assistance at the very time in which the community is really receiving its most severe Federal impact—the loss of its principal employer."

I cite this finding because I feel that whether a community loses its support because of the withdrawal of bases or because of cutbacks in program funding, it takes many years for the tax structure in a community to reform and to recover from the losses incurred. Economic recovery and revitalization are so often closely allied with a viable educational system. Apart from decreases in support for operating there is an additional burden placed on the community because of the bonded indebtedness for schools built to accommodate students due to the military presence.

And what of school housing costs? In one community in Rhode Island, for example, one school building was built expressly to provide spaces for students of Navy-related families; other schools are occupied by upward to 51 percent of impact pupils. Whether the pupils leave or not with the bases closing, the local taxpayer will continue to be responsible for paying the debt service costs for the construction of those school buildings. And even with Federal support funds, local school districts have assumed most of the costs of construction, and the fact that the entire costs will be shifted is bitter irony for communities who have felt that they had been, over the years, underwriting the most of education for impact aid pupils. In the four communities that house most of our Public Law 874 pupils in Rhode Island, the outstanding debt alone is over $16 million. The continued bonded indebtedness with no Federal assistance is one of those long-range problems that school administrators and town officials, to say nothing of the taxpayers, will have to contend with unless there is some relief.

I might add at this point that as an education administrator, I can see a variety of problems involved in continuing categorical support of education program which could appear to distort the overall funding picture. There is no doubt, therefore, that the entire process of Federal support should remain under review. I am pleased this is the case at the present time.

As an example, the elimination of type B pupils for support dollars under Public Law 874 demands close scrutiny. Perhaps even the most ardent advocate of this program might someday concede the possibility of the elimination of B category pupils.

What I would hope for in any examination of Federal funding programs is that a strategy be devised which would eliminate any polarization of the educational community between those who benefit by maintaining the status quo and those who advocate amendments for their own interests.

Solutions should be sought to alleviate the problems that will emerge from the abrupt discontinuance or reduction of 874 aid. I would recommend that if a decision is made to eliminate type B students, that the cutbacks occur gradually over a 3- to 5-year period, reducing, perhaps the percentage of support for B students in average daily attendance.

I would hope, also, that amendments will be considered to provide for additional grants to aid those school districts which have incurred a heavy bonded indebtedness due to construction and expansion of schools built to meet the needs of service-related families.

In your considerations of these suggested amendments, I would hope that the committee will keep paramount the need for States to maintain a great degree of flexibility in their ability to allocate education funds. As States are attempting to equalize education in their States, the impact of Public Law 874 funds cannot be disregarded. With the impact aid funds passing directly to local school districts, as they do now, the States' ability to equalize district level expenditures is diminished. Therefore, your committee may want to consider seriously specific revisions that would channel Federal 874 funds through the States. Section 5(d)(2) of the existing legislation may need alteration if the State is to have the kind of flexibility necessary to assure equal educational opportunities among the various school districts.

As the education decisionmakers in the Nation's Capital, you will be adjusting the impact aid program as the variable change and as you meet the needs of local school districts, your constituencies, your fiscal resources, and the common weal. I have outlined for you some of the alternatives that I see from my chair as I grapple daily with the problems of education, in one State. But beyond these alternatives, I believe that one of the major strengths of Public Law 874 is its uniqueness from other categorical programs which are encumbered with funds earmarked for specific educational functions. The revenue-sharing aspects of Public Law 874 has given it some distinct effectiveness.

I have been talking about dollars and percentages for the most part. But as an educator, and as one charged with assuring that every learner's needs are met, within the limits of educational and financial resources available, I view the role of the Federal Government in education as one of significant import. We in Rhode Island view with serious concern the deliberations and arguments calling for drastic alterations or cutbacks in Federal financial support.

The multiple levels of government involved in education sometime blur the lines of primary responsibility. As I am sure you all realize, there is a fear at the local level that sensitivities to local needs are blunted when decisions are made at a higher level. Those of us who deal daily with the complexities of the problems of providing educational services, of wrestling with the give and take of budget preparation and allocation, are acutely aware of the significance of our efforts and the finality which guides our moves. As educators, we hold a trust, that of assuring educational opportunities for all of our citizens. When alterations of policies are being considered, education administrators are compelled to remind decisionmakers that the trust rests not only with the educators. Those whose future depends upon the design as defined and determined by the decisions you gentlemen make know that you share in that trust—that educators and legislators alike weave the pattern of a man's life.

Thank you very much, Mr. Chairman.

Senator PELL. Thank you. It is a little off the subject, but in our own State where we suffer from base closings, would not the amendment I offered, that the Senate adopted, calling for a slow stretchout in reductions in aid, so that the amount could not be reduced by more than 10 percent over 5 years, have a substantial effect on this situation?

Mr. BURKE. Mr. Chairman, I think that is a general illustration of the principle which I suggested, and I think if that same logic were to apply to any significant area, not only the impact area, but in others as well, it would certainly make it easier to predict where the changes are going to take us. We certainly are very thankful for that amendment.

Senator PELL. Speaking not only as commissioner for education for Rhode Island but as a national educator, what is your own view with regard to Public Law 874? Do you think it should be umbrellaed into other programs?

Mr. BURKE. I think there is a continuing role for it. Speaking as a national educator, if you wish, I think there are some areas where reform is needed. For example, even though we profit considerably in Rhode Island from support of these students, I think from a national point of view there is much to be said for gradual phasing out, should it ever be congressionally mandated.

I think so long as the Federal impact shall have a serious effect on the tax base to fund education, then I think there is a continuing role for support of that kind of activity.

Senator Pell. I have one more general question which still faces this subcommittee. Do you believe we ought to continue the present categorical programs of ESA or adopt administration revenue sharing proposals, or have a mix to try to achieve a mix of both?

Mr. Burke. I think I would favor the latter of the three alternatives.

Senator Pell. To try to achieve a mix, leaning in which direction?

Mr. Burke. I think that the categorical support is an obvious response to the emergence of new kinds of problems in education.

I think that the kind of revival of State agencies with the improvement in capacity of State agencies to administer educational programs, I think with the gradual assumption of increasing the State level of historic responsibility for education, that increased flexibility has to be provided for the State at the same time the Federal funds are urging the States to establish a master plan capability of equalized educational opportunities to the allocation of resources and developing complex management information systems, sometimes categorical aid them is dropped in various districts, actually adversely affecting the very planning, and sometimes the very attempts at equal educational opportunity.

If we strive to equalize the support behind each child and categorize children according to their need, and subsequently a district receives a substantial grant from the Federal Government, sometimes unbeknownst to us at the State level, our attempts at equalizing have been distorted.

Senator Pell. One other general question, as we get into this question of regionalization, are you for or opposed to the regionalization of HEW?

Mr. Burke. I opposed it and I have done it publicly and I have done it before the Secretary.

I am opposed to regionalization particularly from the point of view of education.

Senator Pell. Thank you.

Senator Stafford.

RESULT OF BASE CLOSINGS

Senator Stafford. Thank you, Mr. Chairman. I will be very brief, Mr. Burke.

The fact that I may ask you one or two questions does not necessarily mean that I disagree with what you have said, but let me just ask you, does not the closing of bases, whether they be in Rhode Island or Atlanta, result in fewer students in the schools of the areas where the bases have been?

Mr. Burke. It certainly does, Senator Stafford. The problem is that the teachers that we have, in order to maintain a quality education program—there is no direct correlation between the decrease in costs and the number of students that disappear. We still have to maintain the schools, the indebtedness is still there, the heating, and all the infrastructure remains essentially the same.

We have a very tight organized labor market for teachers in Rhode Island, and to retrench teachers is a very lengthy and difficult process, and one fraught with considerable conflict.

Senator **Stafford**. This is why you would then support Senator Pell's bill for a stretchout in reduction in impacted aid?

Mr. **Burke**. Yes. As the Senator knows, we have been very pleased this amendment was brought forward. We are watching this very, very carefully.

Senator **Stafford**. I think you have already answered my next question to some degree. I heard other witnesses in front of this subcommittee suggest that since a State distributes its funds to its localities on an equitable basis so far as it can, and Federal aid is distributed as equitably as possible under the various categorical grants, does not impacted aid result in effect in a discrimination in favor of those areas which receive it, since this is additional money on top of the other which has been received.

Mr. **Burke**. In Rhode Island we have a reimbursable formula, that is we reimburse the school district for the funds they have spent in a previous year. In Rhode Island before the State reimburses it slices off the amount of Public Law 874 moneys for that very reason.

VIEWS ON REVENUE SHARING

Senator **Stafford**. Finally, let me ask you, Mr. Burke, do you prefer the present categorical system plus impacted aid over a program of special revenue sharing for education?

Mr. **Burke**. There are many aspects of revenue sharing for education that I find attractive. I think it provides the kind of leeway, flexibility, that the estate needs in order to bring about transformation of public education that is very vitally needed.

On the other hand, the various proposals that I have seen for revenue sharing, while providing increased flexibility, would lead to such a diminution of the funds that were available that our capacity to improve education would be even more seriously affected than if we retained the present setup.

Senator **Stafford**. My last question had to do with that. I assume the more money that might be available for special revenue sharing for education, the more attractive the concept might be.

Mr. **Burke**. I think so. I think the more thought that is given to the various areas of responsibility of various levels of government, for example, I think that the Senate and the House and the National Government generally have a very vital role to play, and I think they should retain the effect of what happens in education.

So I think the total revenue sharing would be to disclaim too much of the accountability that we have from the national point of view.

Senator **Stafford**. If revenue sharing were to be adopted by the Congress, to be successful it probably should not at least result in a reduction of Federal support for the school systems across the country. Would that be a fair statement?

Mr. **Burke**. Essentially even with continuing resolution and double funding, the Federal contribution to aid is declining significantly, and this is of course of great concern. We just, for example, finished our budget process in Rhode Island, and we went through the painful process of attempting to cross transfer to State accounts funds that were previously covered by Federal funds.

I am not sure how our budget is going to fair because the increase is rather staggering for that reason.

FEDERAL CONTRIBUTION

Senator BEALL. Mr. Chairman, I just wanted to ask one question. Do you not mean the Federal contribution in gross dollars is declining?

Mr. BURKE. No; as a percent of total cost.

Senator BEALL. Thank you.

Senator PELL. Senator Hathaway.

Senator HATHAWAY. Thank you, Mr. Chairman. I have just one question. I thank you, Mr. Burke, for your testimony. I just wanted to ask you if there is any justification whatsoever for category B impact aid; I mean today.

Mr. BURKE. There was. The more I look at it I think the justification certainly is in some degree of decline.

The point I would make is that if any change in the support of category B is contemplated that it should be phased over a period of time because the system which exists has been constructed around the existence of those funds.

Senator HATHAWAY. They have relied on it for so long?

Mr. BURKE. Yes. There may be—as in Rhode Island—some instances where one could build justification for it, but I would agree with you there is less justification for it than when it was originally enacted.

Senator HATHAWAY. Thank you.

Senator PELL. Senator Beall.

Senator BEALL. Thank you, Mr. Chairman.

Mr. BURKE. I gather from what you said about categorical aid programs as presently constituted tend to be overy restrictive to State and local administrations in responding to the very needs in their own States and districts; is that correct?

Mr. BURKE. Yes.

IMPACT OF "POLITICAL FACTORS" ON STATE DECISIONS

Senator BEALL. As we continue these discussions, as far as categorical aid versus revenue sharing or block grant or the mix of the two, we have been hearing from different groups who come here—guidance counselors, librarians—all saying, if you move away from categorical aid grants at the local level, we will be subjected to political pressures, which mean that we will get down to the bottom of the heap and we will be the last one considered.

I wonder if as a State administrator you would like to comment on the effect or the impact that "political factors" have on the decision-making process in the State educational program.

Mr. BURKE. I think it varies from State to State. That is one of the reasons I urged flexibility.

I think increasingly as our ability to manage complex educational systems improves, the extent to which we can mesure output as input, we find out how well we are doing in terms of what we can accomplish, then I think the kinds of decisions which lead to putting so much money into libraries, books, classroom space and other kinds of input variables, can be decreased.

We hold local systems accountable on the basis of what they can accomplish. Then I think the decision as to whether funds should flow into libraries as opposed to other aids can be made at a local level.

Senator BEALL. Rather than at the State level?

Mr. BURKE. Yes.

Senator BEALL. Thank you.

Senator PELL. Thank you very much indeed, Dr. Burke. It is always a pleasure to have you here.

[The prepared statement by Dr. Burke follows:]

UNITED STATES SENATE

COMMITTEE ON LABOR AND PUBLIC WELFARE

EDUCATION SUBCOMMITTEE

HONORABLE CLAIBORNE PELL, CHAIRMAN

SEPTEMBER 14, 1973

STATEMENT OF

DR. FRED G. BURKE

COMMISSIONER OF EDUCATION

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

FINANCIAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

(PUBLIC LAW 81-874)

Mr. Chairman, members of the committee: I am Fred G. Burke, Commissioner of Education in Rhode Island, speaking as an education administrator.

It is my understanding that the Committee wishes to confine its discussions today to P.L. 81-874 Financial Assistance for Local Educational Agencies in Areas Affected by Federal Activities and I will so address my remarks.

I want to thank you for this opportunity to share with you some of my thoughts on the dilemma being faced by local school officials, municipal officers, and Chief State School Officers in coping with the prospective alterations in P.L. 874 support funds.

In 1950, with passage of this far-reaching legislation, the Federal government entered into a partnership with those local school districts affected by federal installations within their jurisdictions. Over the years, the commitment of the federal government to support those burdened most has been fulfilled. P.L. 874 is significant in that it is the second largest federally-funded program for elementary/secondary education. This sharing of the support among federal, state and local entities has provided the basis upon which the promise of equal educational opportunity could be guaranteed. If that sharing of support were to be withdrawn now, we would be transferring a burden to municipalities, ill-equipped in most cases, to raise the funds necessary to maintain the level of education they had previously offered--an educational service whose budget is predicated upon federal support funds.

Let me talk a little about one State with which I'm familiar which has a fairly clear understanding now of what a reduction in impact aid could mean to several of its school districts and to the state budget, as well. There is a parallel between the situation which exists due to base closings and that which occurs with an immediate reduction of funds.

Rhode Island is feeling the crunch already because of the closing of naval installations. Those four school districts affected, as well as several state offices, are analyzing the effect on educational programs because of the expected roll back of 874 funds.

These communities are anticipating a reduction of impact aid monies coupled with an anticipated decrease in local property values as families transfer out of the community and businesses close. As federal support for education decreases, then, there will be corresponding shifts to state and local tax monies to pick up these educational costs. The burden will fall most heavily on the local communities. A survey conducted in one town in Rhode Island indicated that currently local tax revenues contribute approximately 40% to the support of operating its schools, while the federal government shares at a level of 17% and the state at about 40%. A reduction in federal impact funds, and the estimate is downward to 5%, would force the local share up to 55% while the state's share would be stabilized at about 35-40%. The real tragedy of this readjustment, forcing the local community to assume a greater share of education expenditure, is that it occurs at the same time that the community is feeling the most severe impact of the base closings.

In a 1970 study by John E. Lynch, entitled Local Economic Developments After Military Base Closures, it was specifically pointed out that the "current P.L. 874 standards are so structured that the affected community will actually lose its federal impact assistance at the very time in which the community is really receiving its most severe federal impact...the loss of its principal employer."

I cite this finding because I feel that whether a community loses its support because of the withdrawal of bases or because of cut backs in program funding, it takes many years for the tax structure in a community to re-form and to recover from the losses incurred. Economic recovery and revitalization are so often closely allied with a viable educational system. Apart from decreases in support for operating there is an additional burden placed on community because of the bonded indebtedness for schools built to accomodate students due to the military presence.

And what of school housing costs? In one community in Rhode Island, for example, one school building was built expressly to provide spaces for students of Navy-related families; other schools are occupied by upwards to 51% of impact pupils. Whether the pupils leave or not with the bases closing, the local taxpayer will continue to be responsible for paying the debt service costs for the construction of those school buildings. And even with federal support funds, local school districts have assumed most of the costs of construction, and the fact that the entire costs will be shifted is bitter irony for communities who have felt that they had been, over the years, underwriting the cost of education for impact aid pupils. In the four communities that house most of our P.L. 874 pupils in Rhode Island, the outstanding debt alone is over $16 million. The continued bonded indebtedness with no federal assistance is one of those long-range problems that school administrators and town officials, to say nothing of the tax payers, will have to contend with unless there is relief.

I might add at this point that as an education administrator, I can see a variety of problems involved in continuing categorical support of education programs which could appear to distort the overall funding picture. There is no doubt, therefore, that the entire process of federal support should remain under review.

As an example, the elimination of Type B pupils for support dollars under P.L. 874 demands close scrutiny...perhaps even the most ardent advocate of this program might someday concede the possibility of the elimination of "B" category pupils.

What I would hope for in any examination of federal funding programs is that a strategy be devised which would eliminate any polarization of the educational community between those who benefit by maintaining the status quo and those who advocate amendments for their own interests.

Solutions should be sought to alleviate the problems that will emerge from the abrupt discontinuance or reduction of 874 aid. I would recommend that if a decision is made to eliminate type B students, that the cutbacks occur gradually over a three to five year period, reducing, perhaps the percentage of support for "B" students in average daily attendance.

I would hope, also, that amendments will be considered to provide for additional grants to aid those school districts which have incurred a heavy bonded indebtedness due to construction and expansion of schools built to meet the needs of service-related families.

In your considerations of these suggested amendments, I would hope that the Committee will keep paramount the need for state's to maintain a great degree of flexibility in their ability to allocate education funds. As states are attempting to equalize education in their states, the impact of P.L. 874 funds cannot be disregarded. With the impact aid funds passing directly to local school districts as they do now, the states' ability to equalize district level expenditures is diminished. Therefore, your Committee may want to consider seriously specific revisions that would channel federal 874 funds through the states. Section 5(d)(2) of the existing legislation may need alteration if the state is to have the kind of flexibility necessary to assure equal educational opportunities among school districts.

As the education decision-makers in the nation's capitol, you will be adjusting the impact aid program as the variables change and as you meet the needs of local school districts, your constituencies, your fiscal resources, and the common weal. I have outlined for you some of the alternatives that I see from my chair as I grapple daily with the problems of education, in general. But beyond these alternatives, I believe that one of the major strengths of P.L. 874 is its uniqueness from other categorical programs which are encumbered with funds earmarked for specific educational functions. The revenue-sharing aspect of P.L. 874 has given it its distinct effectiveness.

I've been talking about dollars and percentages for the most part. But as an educator, and as one charged with assuring that every learner's needs are met, within the limits of educational and financial resources available, I view the role of the federal government in education as one of significant import. We in Rhode Island view with serious concern the deliberations and arguments calling for drastic alterations or cutbacks in federal

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financial support.

The multiple levels of government involved in education sometimes blur the lines of primary responsibility. As I am sure you all realize, there is a fear at the local level that sensitivity to local needs are blunted when decisions are made at a higher level. Those of us who deal daily with the complexities of the problems of providing educational services, of wrestling with the give and take of budget preparation and allocation, are acutely aware of the significance of our efforts and the finality which marks our success. As educators, we hold a trust, that of assuring educational opportunities for all of our citizens. When allocations of politics and [illegible], education administrators are compelled to [illegible] [illegible] that the trust rests not only with the educators, those whose future depends upon the design as [illegible] but [illegible] by the [illegible] [illegible] that [illegible] [illegible] [illegible] and [illegible] [illegible] [illegible] [illegible] [illegible].

Senator Pell. Next, also on the subject of the impacted aid on school finance, we will have a panel of Mr. Lantson C. Eldred, associate superintendent of the National City, Calif. schools; president, Impacted Area Schools; Dr. Thomas L. Goodman, superintendent of the San Diego Unified School District.

I would also ask Dr. Dean Fleischauer, superintendent of Fountain/Fort Carson, Colo., school district, to come forward at this time because his subject is the same.

Senator Dominick would have liked very much to have been here, and he regrets that he is not able to be. Because of a prior commitment I will have to leave in an hour or so.

Why do we not have Dr. Eldred lead off.

STATEMENT OF LANTSON C. ELDRED, ASSOCIATE SUPERINTENDENT OF THE NATIONAL CITY, CALIF., SCHOOLS; PRESIDENT, IMPACTED AREA SCHOOLS; THOMAS L. GOODMAN SUPERINTENDENT OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT; AND DEAN FLEISCHAUER, SUPERINTENDENT OF FOUNTAIN/FORT CARSON, COLO., SCHOOL DISTRICT, A PANEL ON IMPACT AID

Mr. Eldred. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I will try to summarize my rather lengthy prepared statement in order to allow the others time for their presentation.

In 1950, Congress authorized and directed that the Federal Government would recognize its responsibility to assist educational agencies in areas affected by Federal activities. This principle of Federal responsibility for Federal actions gave us the basis for payment for the direct burden imposed by the requirements for educating children brought to local communities by the Federal Government, and carried with it the concept of payments for services rendered.

There have been continued attacks upon the program over the years, and suggestions for modification. Right now the present proposals are that the A and B child should perhaps remain in, and the so-called C child, or public housing child, should be eliminated from the law.

There is a great deal of sound reasoning for including that C child. The very nature of facilities that are built with Government support create another problem—another social problem. The facilities in no way come anywhere near supporting the type of local services required, just because of the very low tax base.

We know that homeowners' personal property taxes can never achieve the necessary degree of providing these services without the use of commercial tax base, sales tax, property tax and so on.

Another proposal would do away with the so-called out-of-district B child. This is a child whose parent works on a federally connected property that is located outside a school district's boundary. This proposal is obviously aimed at those counties that are around the District of Columbia. Attached at the end of this statement are the results of a questionnaire I sent out in an effort to gain statistics not now available from the U.S. Office of Education. You will note that the responses recorded at this writing from 742 school districts throughout the country represent a good-sized sample. I shall quote from these figures during my testimony on the "B" out-of-district issue and later as well.

The attacks on the neighboring counties of the District of Columbia seem to stem from the idea that these are rich counties and therefore should receive no money for "B" children from out-of-district. First of all, I would point out that all counties in this country probably have their rich residential areas as we in San Diego County, Calif., have our La Jolla and Mount Helix, but that does not make all in a county wealthy. Public Law 874 was never intended to be an equalization law, but a law to pay for services performed.

Senator PELL. Excuse me. Even in the so-called rich counties around Washington the amount of title I for poor children has increased in the last few years. While impact aid has grown also.

Mr. ELDROD. That is true, Senator; yes. A study of the three counties in question will indicate that there are 43,000 for 1972–73.

Not all of these children can be counted against property within the District of Columbia, but to a large extent result from an exchange of parent working location between these very counties. The more significant statistics show that the D.C. school system has 5,234 "B"-out children for the same period from these very counties under attack. It appears that there is a great exchange across your local bridges every school morning.

For every Montgomery County, which detractors of impact aid love to cite, there are 100 Richland school districts that would be hurt. Richland is a somewhat less wealthy area in the State of Washington impacted by the Atomic Energy Commission. For every Prince Georges County, there are 100 North Kitsap districts, again an example from Washington around Puget Sound. For every Fairfax, there are 100 China Lakes, as the one in California.

Payment for service rendered is the basic premise of impact aid and not the wealth of small groups of people. A review of the column "civilian out" on the attached statistics will indicate to you the drastic effect of such a proposal on most of the districts listed. The large city districts are particularly hard hit but one should be aware that a small loss to a small school district can be just as hard a blow to their programs.

Yet another proposal would require school districts to reduce by 3 percent of their total average daily attendance their total qualifying "B" student count. This is referred to as a means of showing local effort before the Federal Government would recognize its responsibility. I submit that local effort has always existed before Federal funds are applied to the cost of educating the federally connected child.

Take a look at the rates used to pay local districts. These rates provide current payments based on costs that are 2 years old. That is a pretty good absorption factor alone. The impact begins with the first child, be that child federally connected or not, so why shouldn't payment begin for the first federally connected child as it does for the first nonfederally connected child from local sources?

The attached statistics will indicate to you that this proposal would prove the most fatal of all to large and small districts alike. The last column of figures gives you the percent of loss of "B" funds by district, and there are far too many 100 percent losses listed, to say nothing of those lessor percentage losses to other districts which would hurt them drastically. This proposal is coupled with the idea of bringing the "A" rate to just last year instead of 2 years ago as a means of making up this loss of so-called "B" absorption. It appears to me that the "B" losses are in one district while the "A" gains appear in other districts.

This "B" absorption proposal is quoted as moving anywhere up to $190 million, or one-third of the program as we now know it. Before such a move should even be contemplated, adequate statistics must be secured from the U.S. Office of Education or I fear the results may prove more than most districts can endure.

Proposals exist to exclude payments for the 13th and 14th grade, and would appear to exist because the funding of these grade levels is not uniformly the local tax base throughout the States. The junior college (13th and 14th grades) is still supported, however, at least in California, by the very same taxing system used to support the first or second grades. So long as the tax on residential and commercial property is the major source of revenue to finance public education, and so long as the Federal Government enjoys the tax-exempt status for its properties, and so long as other employers pay taxes on commercial property, the Federal Government, as the Nation's largest employer and largest owner of tax-exempt property, should continue the impact aid program regardless of the grade level in question.

I would have to submit that the basic provisions of the present law are excellent, and these provisions are many. I would change my presentation slightly in order to cover some that are not often mentioned and therefore, upon occasion, neglected.

Take, for instance, that section of the law dealing with a reduction in local revenue by reason of acquisition of real property by the United States in such quantities as to impose a more intense and lasting burden on local school districts. This is section 2 of the law and presently affects 147 school districts in 22 of our States. Section 2 is sometimes credited as being a double payment to school districts. This is far from the case, as local districts must demonstrate a substantial loss of real property from the tax role as well as apply a "loss-need" ratio which is further covered by a built-in local effort test. As if this is not enough, all Federal and State revenues, including other sections of Public Law 874, are taken into consideration before entitlement is established and a continuing financial burden proved to exist because of Federal activities within the district. The approximately $4 million spent last year on this section of the law was most earnestly needed by those districts concerned, and over one-third of those districts would not have qualified under any other section of the law.

Another section of the present law provides for payments to districts that experience a decline in Federal impact due to either a cutback or a total closing of a local government facility. Local educational agencies have geared up with assets, be they material items or people, in order to supply services equal to the demand. The rapid cutback or elimination of Federal installations can leave a local school district with excess assets, not so easily disposed of. In this case, once again, a Federal action can place an undue burden on a local community which must be recognized as to a reasonable time for the local government to yet once more adjust their activities because of an action beyond their capability to control.

Gentlemen, I have only barely covered the problems that exist. I doubt that I possess the knowledge necessary to cover all aspects of the present law. I do know that those who conceived of these programs some 23-plus years ago had a foresight for which we should be truly grateful. I would, with your permission, cover just one other section before closing.

Public Law 815 authorizes Federal financial assistance for constructing urgently needed minimum school facilities in school districts having substantial membership increases due to new or increased Federal activities. Here again is authorization to provide Federal recognition forf Federal activity. A new military housing unit of just moderate size can require a completely new school facility. However, where do the funds for such a facility come from?

There is now new taxable property. I must submit that Public Law 815 is a most justifiable law which must be renewed and which must be given a higher priority in appropriation than we have experienced in the last few years. Gentlemen, I have hit this area lightly because I am aware of significant input by the gentleman to follow me, but I by no means wish to slight this most important aspect of impact aid.

Gentlemen, back home I would have to stand before the local taxpayer, should impact aid be curtailed or eliminated, and answer this question: "Why should I pay more school taxes just so as to give a free education to children whose parents or employer pay nothing in local taxes and little, if anything, in State taxes? The only response that I can give is, "I don't know why." Should such a thing occur, I would hope that someone could give me an answer.

Impact aid must be extended and principally in its present form. This can be considered as a minimum financial aid program to education. The program is properly conceived and time tested and a justifiable responsibility of the Federal Government.

Before closing I should like to direct the committee's attention to two prior reports, a few pages of which are attached as an aid in fully understanding the original intent of Congress. These reports are (1) Senate Report No. 2458, 81st Congress, August 29, 1950, and (2) House of Representatives Report No. 2287, 81st Congress, June 20, 1950.

I would like to again express my appreciation for the opportunity to appear before you. If I may be of further assistance to you, I would be most pleased, and I hope I can answer your questions.

Thank you.

Senator PELL. Thank you very much.

[The prepared statement of Mr. Eldred follows:]

Before the

Senate Subcommittee on Education
September 14, 1971

Presentation made by

Lantana C. Eldred
Associate Superintendent of
Schools, National City, Calif.
Speaking as National President,
Impacted Area Schools

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you today to testify on a portion of the bill now under consideration by this Committee. I fully appreciate the urgent need for the renewal of all those federal programs facing extinction for lack of congressional authorization; however, I shall contain my remarks to those laws effecting impact aid, commonly referred to as P. L. 815 and P. L. 874.

In 1950, Congress authorized and directed that the Federal Government would recognize its responsibility to assist educational agencies in areas effected by federal activities. This principal of federal responsibility for federal actions gave us the basis for payment for the direct burden imposed by the requirements for educating children brought to local communities by the Federal Government and carried with it the concept of payments for services rendered.

Twice during the 21 years since the programs' inception, the Department of Health, Education and Welfare resorted to outside independent firms to study and report on the impact aid programs. Both the Stanford and the Battelle reports concluded that the impact aid programs were in fact justified.

The Stanford Report concluded that, "P. L. 874 is a defensible, though somewhat unusual, piece of federal legislation; that it is properly conceived in terms of relieving burdens imposed upon school districts that educate federal pupils; and that permanent payments to impacted areas under P. L. 874 can be justified."

The Battelle Report concluded, "that the Federal Government has imposed a financial burden on school districts" and further that, "the basic features of the current program are sound."

Both the reports concluded in similar terms that the Federal Government should continue to provide a program of school assistance in federally effected areas as the burden of the federal presence is not restricted to the project's initial impact on a community.

Continued attacks on the program have stimulated all types of suggestions for its modification. Let me take these suggestions as a basis for proving the soundness of the present program.

One proposal would have the effect of continuing the authorization for both the "A" and "B" child, but repeals the section "C" child or Public Housing section. The government, by attempting to solve one social problem, tends to develop yet another problem. The very nature of housing provided gives rise to a deep taxation problem in that the services required, because of the housing presence, cannot be supported by the tax base of the units in question. Even under the best of conditions, homeowner personal property taxes cannot support education or other necessary governmental services. Section "C" is a justifiable section of the law and should remain, with the hope that funding will yet one day be provided.

Another proposal would do away with the so called out-of-district "B" child. This is a child whose parent works on a federally connected property that is located outside a school district's boundary. This proposal is obviously aimed at those counties that are around the District of Columbia. Attached at the end of this statement are the results of a questionnaire I sent out in an effort to gain statistics not now available from the U. S. Office of Education. You will note responses recorded at this writing from 742 school districts throughout the country and represents a good-sized sample. I shall quote from these figures during my testimony on the "B" out-of-district issue and later as well.

The attacks on the neighboring counties of the District of Columbia seem to stem from the idea that these are rich counties and therefore should receive no money for "B" children from out-of-district. First of all, I would point out that all counties in this country probably have their rich residential areas as we in San Diego County, California have our La Jolla and Mount Helix, but that does not make all in a county wealthy. P. L. 874 was never intended to be an equalization law, but a law to pay for services performed.

Refer back again to the Stanford Report and you will find a case made for the statement that the burden tends to be greater in rich than in poor districts. Any shift by the Federal Government away from its responsibility just because some rich people in a county can well afford to pay to educate their own children will result in local taxes being raised on the so called rich, but will also effect to perhaps a far greater extent, those in the same counties that are not so well off financially.

There is another aspect to the local problem that has never been covered to my knowledge. This nation is blessed by modern technology which allows the individual to both work where he wishes and at the same time live where he wishes. You will note that the attached statistics show Montgomery, Prince George's and Fairfax Counties with out-of-district "B" children totaling 43,456 for 1972-73. Not all of these children can be counted against property within the District of Columbia, but to a large extent result from an exchange of parent working location between these very counties. The more significant statistics show that the D. C. School system has 5,243 "B"-out children for the same period from these very counties under attack. It appears that there is a great exchange across your local bridges every school morning.

For every Montgomery County, which detractors of impact aid love to cite, there are 100 Richland school districts that would be hurt. Richland is a somewhat less wealthy area in the state of Washington impacted by the Atomic Energy Commission. For every Prince George's County, there are 100 North Kitsap Districts, again an example from Washington around Puget Sound. For every Fairfax there are 100 China Lakes, as the one in California.

Payment for services rendered is the basic premise of impact aid and not the wealth of small groups of people. A review of the column "civilian out" on the attached statistics will indicate to you the drastic effect of such a proposal on most of the districts listed. The large city districts are particularly hard hit but one should be aware that a small loss to a small school district can be just as hard a blow to their programs.

Yet another proposal would require school districts to reduce by 3% of their total average daily attendance their total qualifying "B" student count. This is referred to as a means of showing local effort before the Federal Government would recognize its responsibility. I submit that local effort has always existed before federal funds are applied to the cost of educating the federally connected child. Take a look at the rates used to pay local districts. These rates provide current payments based on costs that are two years old. That is a pretty good absorption factor alone. The impact begins with the first child, be that child federally connected or not, so why shouldn't payment begin for the first federally connected child as it does for the first non-federally connected child from local sources. The attached statistics will indicate to you that this proposal would prove the most fatal of all to large and small districts alike. The last column of figures gives you the per cent of loss of "B" funds by district and there are far too many 100% losses listed to say nothing of those lesser percentage losses to other districts which would hurt them drastically. This proposal is coupled with the idea of bringing the "A" rate to just last year instead of two years ago as a means of making up this loss of so-called "B" absorption. It appears to me that the "B" losses are in one district while the "A" gains appear in other districts.

This "B" absorption proposal is quoted as moving anywhere up to $190 million dollars, or one-third of the program as we now know it. Before such a move should even be contemplated, adequate statistics must be secured from the U. S. Office of Education or I fear the results may prove more than most districts can endure.

Proposals exist to exclude payments for the 13th and 14th grade and would appear to exist because the funding of these grade levels is not uniformly the local tax base throughout the states. The junior college (13th and 14th grades) is still supported, however, at least in California, by the very same taxing system used to support the 1st or 2nd grades. So long as the tax on residential and commercial property is the major source of revenue to finance public education, and so long as the Federal Government enjoys the tax exempt status for its properties, and so long as other employers pay taxes on commercial property, the Federal Government, as the nation's larges employer and largest owner of tax exempt property, should continue the impact aid program regardless of the grade level in question.

I would have to submit that the basic provisions of the present law are excellent, and these provisions are many. I would change my presentation slightly in order to cover some that are not often mentioned and therefore, upon occasion, neglected.

Take for instance that section of the law dealing with a reduction in local revenue by reason of acquisition of real property by the United States in such quantities as to impose a more intense and lasting burden on local school districts. This is Section Two of the law and presently effects 147 school districts in 22 of our states. Section Two is sometimes credited as being a double payment to school districts. This is far from the case, as local districts must demonstrate a substantial loss of real property from the tax role as well as apply a "loss-need" ratio which is further covered by a built-in local effort test. As if this is not enough, all federal and state revenues, including other sections of P. L. 874, are taken into consideration before entitlement is established and a continuing financial burden proved to exist because of federal activities within the district. The approximately four million dollars spent last year on this section of the law was most earnestly needed by those districts concerned, and over one-third of those districts would not have qualified under any other section of the law.

Another section of the present law provides for payments to districts who experience a decline in federal impact due to either a cut-back or a total closing of a local government facility. Local educational agencies have geared up with assets, be they material items or people, in order to supply services equal to the demand. The rapid cut-back or elimination of federal installations can leave a local school district with excess assets, not so easily disposed of. In this case, once again, a federal action can place an undue burden on a local community which must be recognized as to a reasonable time for the local government to yet once more adjust their activities because of an action beyond their capability to control.

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I would like to again express my appreciation for the opportunity to appear before you. If I may be of further assistance to you, I would be most pleased, and I hope I can answer your questions. Thank you.

IMPACT AID SCHOOL DISTRICTS
August, 1977

ARIZONA

SCHOOL DISTRICTS	ADA 1976-77	EPC	CATEGORY A	CATEGORY B MILITARY Out	In	CIVILIAN Out	In	CIVILIAN [illegible]	% of "B" [illegible]
Chandler	1578	927	100	5	70	2	53	-	36
Litchfield	1131	708	333	195	-	-	-	-	17
Phoenix	24375	1043	1837	2	393	-	604	-	73

[illegible]
[illegible]

ARKANSAS

SCHOOL DISTRICT	[illegible]	ENR.	[illegible]	[illegible]		[illegible]		[illegible]	% OF [illegible]
Caswell	1808	500.	1270	-	151	–	55	-	26

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IMPACT AID SCHOOL DISTRICTS
August, 1973

California

				CATEGORY B					% of "B"
SCHOOL DISTRICT	ADA 1972-73	PPE	CATEGORY A	MILITARY Out	In	CIVILIAN Out	In	CIVILIAN Out of Co.	EXEMPTION
Roy Sunset	450 806		-	14	-	10	-	1	100
Rio	1,577	869.	-	20	-	215	-	20	25
Riverdale	436	1230.	-	2	15	-	17	2	38
San Antonio Union	100	840.	15	-	29	-	-	-	10
San Bernardino	33,833	867.	479	509	1304	430	1,204	680	29
San Diego Unified	129,320	968.	5445	11455		3206	6395	76	18
San Juan Unified	53,306	871.	46	1810	-	4667	406	751	25
Santa Maria Elem.	4,319	1169.	-	-	37	747	9	-	16
Santa Paula	1,305	1061.	-	-	71	-	-	-	58
Santa Ynez	660	815.	12	1	68	-	18	-	23
Santee	7,341	848.	-	307	-	1059	-	-	15
Sierra Plumas	660	883	11	-	-	-	21	-	95
Somis	249	1270.	-	1	-	32	-	-	100
South Bay	5,700	803.	3	2861	44	737	-	-	05
South Fork Elem.	160	704.	9	-	-	13	-	6	15
South Kern Unified	1,006	951.	-	29	-	255	-	15	12
Timber	363	12,726.	20	-	-	342	-	131	03
Vacaville	6,621	734.	-	3	1234	210	722	218	09
Ventura County	9,938	1104.	10	-	16	30	324	30	81
Ventura Unified	17,343	978.	7	83	18	326	-	56	100
Washington Union	723	671.	-	04	-	-	43	10	16
Weaver Union	770		-	-	43	-	-	-	53
Westside Union H.S.	3,137	877.	-	7	-	212	-	19	29
Wheatland	2,547	952.	2174	-	113	37	7	7	48
Winton	840		-	213	-	27	-	6	12
Sweetwater High	22,568	949.	6	1777	71	1801	-	-	18
Oakland	57,343	1077.	173	478	107	2695	1309	1067 2937	37

[illegible]
August, 197[illegible]

FLORIDA

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		CATEGORY B			% of [illegible]
								[illegible]	
Alachua	22,189	153%.	-	161	20	-	549	-	64
Bay	15,815	130%.	621	221	1054	41	1137	41	16
Bradford	3,230	599%.	-	49	-	87	102	121	46
Brevard	57,294	137%.	2025	-	1620	56	10512	-	02
Duval	99,654	108%.	1767	-	9804	200	2539	200	37
Escambia	43,436	208%.	1030	-	6305	-	1411	-	15
Glades	480	1117%.	78	-	5	-	8	-	100
Hamilton	2,045	1012%.	-	-	9	6	122	-	45
Holmes	2,926	222%.	1057	13	-	76	-	76	71
Monroe	9,790	796%.	2100	-	-	-	-	-	
Nassau	6,232	[illegible] 230%. [illegible] 219%.	-	-	40	-	329	-	57
Orange	[illegible]	76%.	1000	-	2553	-	2202	-	55
Pinellas	63,013	339%.	-	1209	-	152	2070	1400	07
Santa Rosa	10,336	870%.	402	-	962	607	779	607	10
Sarasota	26,085	262%.	-	725	-	622	-	1347	56
St. Lucie	19,537	860%.	74	-	46	-	683	-	43
Volusia	31,862	702%.	-	626	-	764	75	764	77
Walton	3,622	643%.		-	159	-	478	-	18

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[illegible]
August, [illegible]

GEORGIA

School District	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]		[illegible]	% of "B" [illegible]
Bibb	20,[illegible]	[illegible]1.	0	-	-	-	4175	-	20
Bleckley	[illegible]	[illegible]	-	-	-	-	1[illegible]		100
Cobb	44,31[illegible]	[illegible]	[illegible]	326	[illegible]	[illegible]	[illegible]	479	17
Cochran	1,[illegible]37	[illegible]13.	-	3	-	714	-	-	19
Columbia	6,[illegible]	[illegible]	911	-	911	746	[illegible]	280	11
Dougherty	[illegible]	261.	[illegible]	-	[illegible]	5	[illegible]	-	29
Houston	[illegible]	[illegible]	1037	-	[illegible]	-	[illegible]	-	06
Lanier	[illegible]	515.	-	9	42	-	51	-	27
Peach	3,473	500.	-	46	-	856	-	690	12
Fulton	11,713	[illegible].	75	-	421	-	1337	-	58
Lowndes	9,21[illegible]	575.	380		327		271		31
Muscogee	35,500	312.	71		5132	17	1256	17	13

[illegible]
[illegible]

IDAHO

SCHOOL DISTRICT	ADA [illegible]	[illegible]	[illegible]	[illegible]		CATEGORY B [illegible]		[illegible]	% of "B" [illegible]
American Falls	1,270	701.	31	-	-	-	107	-	34
Arco	750	640.	8	-	6	-	764	-	10
Avery	91	911.	11	-	-	11	-	-	27
Basin	111	647.	13	-	-	-	26	-	11
Blackfoot	3,025	[illegible]	391	-	31	-	769	-	14
Blaine	1,415	710.	3	-	-	-	199	-	22
Bonner	4,067	695.	34	-	13	-	384	-	31
Boundary	1,617	671.	39	-	-	-	161	-	29
Bruneau-Grand View	575	875.	86	-	10	-	27	-	53
Camas	220	937.	5	-	1	-	26	-	19
Cambridge	271	[illegible]	-	-	-	-	47	-	17
Cascade	287	900.	9	-	-	-	20	-	11
Challis	378	771.	16	-	-	-	[illegible]	-	15
Coeur d'Alene	5,679	[illegible]	-	-	47	-	121	-	100
Cottonwood	254	[illegible]	52	-	2	-	50	-	42
Council	342	[illegible]	10	-	-	-	120	-	10
[illegible]	107	[illegible]	-	-	-	-	24	-	66
[illegible]	225	721.	3	-	3	-	25	-	25
[illegible]	285	966.	26	-	1	-	22	-	30
Elk River	97	1180.	-	-	1	-	1	-	16
[illegible]	220	521.	-	-	1	-	24	-	33
Garden Valley	118	1206.	16	-	4	-	56	-	55
Glenns Ferry	471	614.	21	-	11	-	63	-	56
[illegible]	1,221	634.	85	-	3	-	655	-	10
[illegible]	315	688.	2	-	-	-	11	-	69
[illegible]	238	707.	-	-	-	-	66	-	12
Idaho Falls Dist. 91	9,307	559.	-	-	137	-	2137	-	12
Idaho Falls Dist. 93	5,200	583.	-	-	95	-	791	-	15
Independent of Boise	21,29[illegible]	675.	12	-	200	-	1492	-	37
[illegible]	206	526.	27	-	-	-	212	-	13
[illegible]	2,70[illegible]	[illegible]	4	-	10	-	12[illegible]	-	60
[illegible]	701	[illegible]	-	-	3	-	3[illegible]	-	31
[illegible]	727	[illegible]	-	-	3	-	53	-	40
[illegible]	436	722.	-	-	-	-	37	-	33
[illegible]	1,268	[illegible]	1	-	8	-	50	-	66
[illegible]	574	[illegible]	[illegible]	-	-	-	72	-	22
[illegible]	5,853	515.	-	-	-	-	575	-	31
[illegible]	316	706.	3	-	-	-	37	-	24
[illegible]	2,1[illegible]	[illegible]	-	-	3	-	16[illegible]	-	43
[illegible]	357	611.	5	-	-	-	7	-	100
[illegible]	[illegible]	[illegible]	-	-	4	-	16[illegible]	-	14
[illegible]	[illegible]	776.	4	-	-	-	10[illegible]	-	07
[illegible]	[illegible]	[illegible]	-	-	31	-	70[illegible]	-	61
[illegible]	[illegible]	[illegible]	-	-	65	-	10[illegible]	-	51
[illegible]	[illegible]	[illegible]	1282	-	358	-	462	-	14
[illegible]	509	[illegible]	-	-	-	-	14	-	71
[illegible]	365	[illegible]	2	-	-	12	-	-	02
[illegible]	627	[illegible]	-	-	11	-	50	-	33
[illegible]	2,309	591.	9	-	[illegible]	-	66[illegible]	-	11

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IMPACT AID SCHOOL DISTRICTS
August, 19[illegible]

IDAHO

SCHOOL DISTRICT	ADA	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	% of [illegible]
Pocatello	11,000	521.	342	-	107	-	556	-	50
Potlatch	692	614.	1	-	3	-	36	-	54
Rigby	3,030	568.	3	-	-	-	203	-	32
Ririe Dist. 92	96	1010.	24	-	-	-	7	-	32
Ririe Dist. 252	474	652.	-	-	2	-	50	-	17
Salmon	1,272	570.	16	-	6	-	221	-	17
Shelley	1,619	516.	-	-	-	-	235	-	21
Shoshone	[illegible]	769.	-	-	-	-	27	-	44
Snake River	1,682	601.	-	-	7	-	272	-	18
St. Anthony	2,257	474.	6	-	4	-	379	-	15
St. Maries	1,109	553.	-	-	-	-	166	-	21
Sugar City	657	586.	-	-	-	-	25		84
[illegible]	273	927.	-	-	-	-	32	-	25
[illegible]	601	626.	4	-	-	-	41	-	44
Wallace	1,395	481.	0	-	1	-	5	-	100
Wendell	614	604.	-	-	-	-	22	-	95
Western [illegible]	335	779.	27	-	2	-	40	-	26
Whitepine	502	731.	-	-	5	-	39	-	41
Worley	133	944.	17	-	-	-	18	-	22

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[illegible]

Clarksville	2,7[illegible]	Col.	-	-	-	-	70[illegible]	-	20
Lawrence Township	[illegible]	39[illegible].	71[illegible]	-	6[illegible]	19	[illegible]	-	28
[illegible]	1,[illegible]		10[illegible]	17	1	-	[illegible]	300	03

[illegible]

[illegible]

Allegany	[illegible]	[illegible]		100	[illegible]	-	377	-	[illegible]
Baltimore City	[illegible]			-	-	-	25017	V/S [illegible] N/S 238	21
Baltimore County	[illegible]	[illegible]	71	313	[illegible]	2204	[illegible]	1163	[illegible]
Calvert	[illegible]		-	-	-	-	835	-	[illegible]
Howard	[illegible]	[illegible]	2	17	3	-	64	-	[illegible]
Frederick	[illegible]	[illegible]	[illegible]	[illegible]	-	10	[illegible]	1507	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	717	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	21214	[illegible]
Prince George's	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
St. Mary's	[illegible]	[illegible]	[illegible]	1	[illegible]	[illegible]	[illegible]	257	[illegible]

[illegible]
[illegible]

MONTANA

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Browning Blackfeet Reservation	1,723	1906	1937	-	-	-	244	-	29

[illegible]

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	-	-	1416	-	221	-	88

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[illegible]	2,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	14
[illegible]			[illegible]	[illegible]	[illegible]	27	[illegible]	[illegible]	
[illegible]	2,017	[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	35
[illegible]	[illegible]	[illegible]	[illegible]	1	-	-	-	-	100
[illegible]	794	[illegible]	3	-	1[illegible]	-	[illegible]	-	18
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	120	91	39	[illegible]
[illegible]	1,[illegible]	1062	[illegible]	-	8	-	[illegible]	-	[illegible]
[illegible]	1,[illegible]	-	97	-	-	-	[illegible]	-	17
[illegible]	[illegible]	-	[illegible]	-	-	-	101	-	[illegible]
[illegible]		287	[illegible]	110	110	93	421	209	

[illegible]

[illegible]

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Portsmouth Little Harbour	5,132	700	[illegible]	-	322	20	297	17	14

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[illegible]

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[illegible]	7,417	[illegible]	-	15	-	96	-	-	52
[illegible]	[illegible]	[illegible]	-	15	-	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	11	-	2	100
[illegible]		[illegible]	1	10	-	15	-	3	
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	53	-	-	46
[illegible]	[illegible]	[illegible]	-	[illegible]	-	82	127	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	-	-	-	100
[illegible]	[illegible]	[illegible]	-	[illegible]	-	-	-	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	[illegible]	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	-	-	-	[illegible]	-	[illegible]
[illegible]	[illegible]	1152	-	[illegible]	-	30	-	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	-	8	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	700	-	-	-	[illegible]	-	100
[illegible]	[illegible]	[illegible]	75	13	2	60	3	-	[illegible]
[illegible]	[illegible]		[illegible]	7	-	[illegible]	-	-	100
Lockport	[illegible]	[illegible]	-	-	[illegible]	-	170	-	[illegible]
[illegible]	[illegible]	[illegible]	31	32	6	15	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	36	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	8	3	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	-	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	11	110	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	-	[illegible]	[illegible]
[illegible]	911	[illegible]	[illegible]	-	1	-	[illegible]	-	[illegible]
[illegible]	[illegible]	158	-	[illegible]	-	[illegible]	[illegible]	51	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	1	1	73	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	1	[illegible]	-	[illegible]	-	7	[illegible]
[illegible]	[illegible]	[illegible]	8	11	-	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	[illegible]	67
[illegible]	[illegible]	[illegible]	-	3	-	-	[illegible]	5	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	-	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	74	[illegible]	-	[illegible]
[illegible]	[illegible]	1164	-	-	-	27	-	-	[illegible]
[illegible]	[illegible]		-	5	-	[illegible]	[illegible]	-	[illegible]
[illegible]	[illegible]	1136	-	-	43	[illegible]	[illegible]	-	61
[illegible]	[illegible]		-	[illegible]	-	[illegible]	-	1	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	14	3	5	100
[illegible]	[illegible]	[illegible]	-	[illegible]	-	-	[illegible]	-	27
Syracuse	[illegible]	1364	-	-	[illegible]	-	[illegible]	-	[illegible]
[illegible]	[illegible]			[illegible]	-	[illegible]	-	-	[illegible]
Utica	[illegible]	[illegible]	-	[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	-	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	1	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	-	67	[illegible]	100
[illegible]	[illegible]	[illegible]	-	-	-	[illegible]	-	-	[illegible]
[illegible]	[illegible]		-	[illegible]	[illegible]	14	[illegible]	15	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	-	-	[illegible]	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	-	-	[illegible]
[illegible]	[illegible]	[illegible]	-	-	11	[illegible]	-	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	-	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	1065	21	-	[illegible]	[illegible]	-	[illegible]

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[illegible]

[illegible]

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[illegible]

CATEGORY E

[illegible]

[illegible]

[illegible]	[illegible]	PPR	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6,813	121.	[illegible]	55	-	[illegible]	[illegible]	[illegible]	11

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[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]			[illegible]	[illegible]	-	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	11	-	[illegible]
[illegible]	[illegible]	[illegible]	-	-	[illegible]	[illegible]	-	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	-	11
[illegible]	[illegible]	[illegible]	-	7	-	[illegible]	[illegible]	76	[illegible]
[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	-	-	-	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	[illegible]	-	211	[illegible]	211	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	110	-	[illegible]
[illegible]	[illegible]	[illegible]	4	-	[illegible]	-	711	720	190
[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	-	163	65
[illegible]	[illegible]	[illegible]	-	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	-	[illegible]	[illegible]	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	[illegible]	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	12
[illegible]	[illegible]	[illegible]	-	-	-	-	[illegible]	-	12
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	19
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	35	81

*[illegible] live on Federal property.

[illegible]	[illegible]		[illegible]	112	[illegible]	-	1411	-	
[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	460	-	20
[illegible]	[illegible]	[illegible]	1176	[illegible]	[illegible]	-	[illegible]	-	[illegible]
[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	[illegible]	-	19

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IMPACT AID SCHOOL DISTRICTS
August, 1972

SCHOOL DISTRICT	ADA 1972-73	PRC	CATEGORY A	MILITARY Out	MILITARY In	CATEGORY B CIVILIAN Out	CATEGORY B CIVILIAN In	CIVILIAN OUT OF ST.	[illegible]
Auburn	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Bremerton	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Cape Flattery	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Central Kitsap	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Cheney	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Clover Park	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Franklin Pierce	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Medical Lake	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mt. Adams	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
North Kitsap	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Port Angeles	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Richland	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
South Kitsap	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Spokane	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Tacoma	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Walla Walla	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

IMPACT AID SCHOOL DISTRICTS
August, 1973

WASHINGTON D.C.

				CATEGORY B					% of "B"
SCHOOL DISTRICT	ADA 1972-73	PPC	CATEGORY A	MILITARY Out	MILITARY In	CIVILIAN Out	CIVILIAN In	CIVILIAN Out of Co.	ABSORPTION Loss @ 3%
District of Columbia	126,074	558.	350			5243	15779	5243	18

IMPACT AID SCHOOL DISTRICTS
August, 1973

WYOMING

SCHOOL DISTRICT	ADA 1972-73	PPC	CATEGORY A	CATEGORY B MILITARY Out	CATEGORY B MILITARY In	CATEGORY B CIVILIAN Out	CATEGORY B CIVILIAN In	CATEGORY B CIVILIAN Out of Co.	% of "B" ABSORPTION Loss @ 3%
Cheyenne	13,172	877.	1062	76	904	-	1876	76	14

81st Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { No. 2287

OPERATING EXPENSES OF SCHOOL DISTRICTS AFFECTED BY FEDERAL ACTIVITIES

June 20, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Barden, from the Committee on Education and Labor, submitted the following

REPORT

[To accompany H. R. 7940]

The Committee on Education and Labor, to whom was referred the bill (H. R. 7940) to provide financial assistance for local educational agencies in areas affected by Federal activities, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all of the text of the bill as introduced and inserts in lieu thereof a substitute which appears in the reported bill in italic type.

Introduction

In the prosecution of programs essential to the general welfare or defense of our Nation, the Federal Government conducts many kinds of activities in many different locations. It builds ships, planes, tanks, and dams. It has built, still owns, and is continuing to build hundreds of thousands of dwelling units for military personnel or civilian workers. Large Army camps, naval bases, and airfields are being operated for the training of military personnel and for defense purposes. Hundreds of thousands of acres of land have been acquired for national parks, national forests, or reclamation and flood-control projects. Experimental work with guided missiles and atomic energy requires extensive operations in some areas. In short, the United States has become an industrialist, a landlord, or a businessman in many communities of the Nation without accepting the responsibility of the normal citizen in a community, because property under Federal ownership or control generally is not subject to local taxation.

In addition to the fact that no local tax income is derived from these federally owned properties, some communities also are seriously affected by very large increases in population resulting from Federal activities. Some Federal projects employ tens of thousands of people, some of whom live on Federal property and others live in adjacent communities. Other projects employ only a handful of people or none at all. In some cases the population increase has been very sudden and substantial, while in others it has been gradual over a period of years. As a result, problems varying in extent and complexity are created by these Federal activities for local governmental agencies in the provision of public-school facilities and services.

This situation has existed to some extent since the early days of the Nation, but the number and extent of the problems were not great in the early part of the Nation's history. World War I resulted in a heavy expansion of Federal activity in many areas, and serious problems were created for some local school districts. They were, however, largely adjusted within a short time after the war, and problems of this type were neither widespread nor critical following that period. Circumstances were quite different during and after World War II. The United States was engaged in a Global War in which the country not only mobilized and equipped over 16,000,000 men but, in addition, supplied a very substantial part of the materials of war used by its Allies. This all-out Global War effort required the greatest expansion of military and production activities ever undertaken in the Nation. Realizing the serious impact of military and industrial activities on small communities, the Congress, early in 1941, authorized the appropriation of funds to assist communities in these areas in providing necessary community facilities and services, including public schools.

Under this authorization, known as the Lanham Act program, assistance was provided for construction of school facilities and maintenance and operation of schools in overburdened areas from 1941 until the end of hostilities. Since the basis for this program was to aid in prosecution of the war effort, the administrative agency announced the intention to discontinue assistance of all types as soon as possible after the surrender of Japan. It was anticipated in taking this action that rapid demobilization of the Armed Forces, discontinuance or curtailment of production for war purposes, and the readjustment to peacetime conditions would eliminate the need for this type of assistance. This readjustment, however, took place much more slowly than was anticipated and in some cases did not occur. Because of the shortage of housing generally, war housing projects have remained occupied at capacity levels. Many people did not return to their homes but have remained in the areas to which they were sent for war production or military training. A substantial amount of property still remains under Federal ownership, thus depriving communities of local real-estate taxes.

As the result of these conditions, many school districts have continued to be just as much overburdened and in as great a need of Federal aid since the end of the war period as at any time during the war. Realizing that these problems remained, the Congress has continued this assistance program for maintenance and operation of schools each year from the 1946-47 school year to the present time, and, in addition, has authorized a number of different Federal agencies to provide assistance of certain types to school districts affected by their activities. Legislation authorizing continuation of this assistance program each year made it clear that it was the intent of Congress to restrict the program with the intention of withdrawing Federal aid entirely as soon as possible. At the same time, however, it was evident that a number of the Federal activities which had caused these severe problems were continuing and were being expanded in some cases, and that the affected communities would require Federal assistance for a considerable period in the future if they were to provide normal school services.

This entire matter was brought to the attention of this committee at the first session of the Eighty-first Congress, and several bills were introduced to provide additional school plant facilities in these federally affected areas and also to provide for Federal assistance for current operating expenses on a uniform and permanent basis. The committee considered these various bills, and the results of these investigations convinced the committee members that there was not sufficient information available on the nature and extent of the problems that existed for the committee to take definite action on an over-all permanent proposal. As a result, the committee authorized temporary continuation for one more year of the maintenance and operation assistance and appointed two subcommittees to study this entire matter and make their recommendations to the full committee early in the second session.

These subcommittees held hearings in Washington, D. C., with the interested Federal agencies and with the school officials in the metropolitan area giving testimony during the week of October 10, 1949. Subsequently, the subcommittees conducted field investigations in 23 locations in 16 States, receiving testimony from approximately 600 witnesses from 42 States. The witnesses included representatives from the local offices of the Federal agencies concerned, the local officials whose school districts were affected, representatives of the State departments of education, and representatives of other interested organizations. Factual data were presented by these witnesses on a very substantial sample of the affected school districts and included all types of problems created by the various activities of the Federal Government.

In order to obtain totals on the number of school districts affected, the number of children involved, and the extent of the need, the subcommittees supplemented their field investigations by a statistical study conducted through the State departments of education, with the data being supplied by the local officials in the school districts affected by these activities. The data obtained in this manner have been tabulated and analyzed and included in a joint report of the subcommittees to the full committee.

TYPES OF PROBLEMS THAT EXIST

The subcommittees found that, basically, Federal activities place a financial burden on adjacent school districts for the following principal reasons:

1. Federal ownership of property reduces local tax income for school purposes.

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2086

Calendar No. 2489

81st Congress } SENATE { Report
2d Session } { No. 2458

PROVIDING FINANCIAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES, AND FOR OTHER PURPOSES

August 29 (legislative day, July 20), 1950.—Ordered to be printed

Mr. Hill, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 7940]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 7940) to provide financial assistance for local educational agencies in areas affected by Federal activities, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment strikes out all of the text of the bill as passed by the House and inserts in lieu thereof a substitute which appears in the reported bill in italic type.

Introduction

During World War II, the Federal Government found it necessary to carry out mobilization and war-production programs of unprecedented extent. These Federal activities, involving as they did the removal of real property from the local tax rolls, and a sudden and substantial increase in the population of many areas, placed a tremendous financial burden on many American communities, with the result that many of these communities found it extremely difficult, if not impossible, to maintain and provide the necessary facilities and services for public education.

To aid in meeting these problems, the Congress, early in 1941, approved the Lanham Act, which, among other things, provided Federal assistance for the construction of school facilities and the maintenance and operation of schools in areas overburdened by reason of increased Federal activities.

While the program authorized by the Lanham Act was designed as a war measure only, the situation in many of these affected areas was such that continued Federal aid was essential. Accordingly, Congress has continued the assistance program for the maintenance and operation of schools each year up to the present time.

In many areas problems arising out of these increased activities of the Federal Government still exist, and the need for continued Federal assistance in these areas cannot be questioned. Accordingly, your committee has favorably reported this bill. The bill, as reported, provides for a 3-year program of Federal assistance to those areas which are or may become overburdened by reason of increased Federal activities. Your committee has limited this bill to a 3-year period because it is of the opinion that further study is necessary before any permanent program can be established which will effectively deal with the numerous and varying problems involved.

EXPLANATION OF THE BILL

SECTION 1. DECLARATION OF POLICY

This section declares it to be the policy of the United States to provide financial assistance with respect to the operating expenses of those local school agencies upon which Federal activities have placed an undue financial burden.

SECTION 2. CHILDREN RESIDING ON FEDERAL PROPERTY

This section provides that the Federal Government shall pay to each local educational agency which furnishes education to children residing on Federal property an amount per child roughly equivalent to the amount per child which other property owners in comparable communities pay toward the cost of educating children.

Under this section, payments for any year are limited to school districts in which the number of children residing on Federal property is not less than 10 or not less than 3 percent of the total number of children in average daily attendance during the year in question at the schools of such agency, whichever is the larger. Payments are to be made only on the number of Federal children in excess of 10 or in excess of 3 percent of the total number of children in average daily attendance.

The payment per child residing on Federal property—i. e., the local contribution rate—is an amount equal to the current expenditures per child made from revenues from local sources in comparable school districts within the State. The local contribution rate is derived by dividing the aggregate current expenditures (during the second preceding fiscal year) which local educational agencies in comparable school districts made out of revenues derived from local sources, by the aggregate number of children in average daily attendance at schools of such agency during the same preceding fiscal year. The effect of the payments provided for in this section is to compensate the local educational agency for loss in its local revenues.

The committee's attention has been called to the situation in the Territory of Hawaii which, because it seems to have a single integrated school system, would probably constitute a single local education agency as defined in the bill. If such be the case there would be no other school districts within the State. However, the intent to in-

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Senator PELL. Now we will hear from Dr. Goodman.

STATEMENT OF THOMAS L. GOODMAN, SUPERINTENDENT, SAN DIEGO UNIFIED SCHOOL DISTRICT, SAN DIEGO, CALIF.

Mr. GOODMAN. Mr. Chairman, I also appreciate the opportunity to be here to give some input into the matter of Public Law 874 funds. You have my testimony, which is printed, and which I will not read.

Senator PELL. It will be included in the record in its entirety at the conclusion of your testimony.

Mr. GOODMAN. I would like to call your attention to that portion of my statement which cites the report of the Committee on Education and Labor of the House of Representatives of the United States which accompanied H.R. 7940, or which became Public Law 874 back in 1970 when they stated:

> The United States has become an industrialist, a landlord, or businessman in many communities of the Nation without accepting the responsibility of the normal citizen in the community, because property under Federal ownership or control is generally not subject to local taxation.

That is one justification in lieu of taxes for Public Law 874. I would like to throw in another point for discussion on legislation such as Public Law 874, and that special kind of educational needs that are brought about by Federal installations whether or not they be military, defense related or others, where you have a high transciency factor of youngsters.

We recently did a study in San Diego several years ago in which we looked at reading and mathematics achievements of third-grade youngsters. We found a direct correlation with the stability or the rootedness of the youngsters in the community as opposed to a high transiency factor.

In other words, a youngster who had been there in all three grades, in his performance in district, State and, national achievemtnt tests, showed that he was in the upper percentile in terms of achievement, but the youngster who had been there only 2 years ago, and the youngster who had been there only 1 year prior to taking these examinations, fell in the lower percentile.

I would like to use San Diego city schools, if I may, as a valid case study. As my testimony will show, San Diego is a valid case study for Public Law 874 as a community heavily committed to the defense facilities of this country and, at the same time, a large urban area including the wide spread of the American people from rich to poor, with representative proportions of the majority and minority populations. San Diego's problems are not unique and we would like to think that the public educational response has been the best possible within the limitations of community resources and the challenges of a diverse and mobile society.

The school district's spending for public education is very close to the national average, and the district's property tax base is relatively low for its size and need. The loss of impact aid benefits to San Diego would mean that children served by the school district would be severely penalized. Impact aid is a basic component to the school district's financial needs but, while it represents a small percentage of general income, the loss of impact aid could only be recovered by increasing the burden on the local property taxpayer or reduction of the educational program.

San Diego does have a large Federal population, resulting from over 15 military bases within the school district's boundaries, with land alone valued at over $700 million by the county assessor 2 years ago. Since that time property assessments have increased on a citywide average by over 25 percent and, with other Government properties included, federally owned lands can be conservatively evaluated at over $1 billion.

At the current school tax rate, a rough calculation indicated that Federal property would provide a minimum of $10 million revenue to our school district. However, the figure is meaningless since under current school finance formulas the addition of tax exempt Federal properties would increase the tax base and only provide a substantial reduction in the local tax rate.

I believe that Public Laws 874 and 815 offer a better solution than previously proposed payment in lieu of taxes, since payment is based on the number and type of federally connected children served by a school district. Basing payment on services provided to the children of Federal employees is equitable to districts where Federal employees live, and provides that Federal dollars follow the child and support the educational program he receives. Finally, the recordkeeping and the administration of the program are much simpler because they are based on counting children rather than evaluating real estate.

The chart that follows (p. 4) indicates the recent history of the San Diego Unified School District's impact aid receipts. Several basic observations can be made:

1. The district gradually has been absorbing the costs of education formerly supported by impact aid.

2. Federal responsibility has not remained consistent with the burden placed on the local school system.

3. No substantial additions have been made to local tax rolls by way of Federal property transfers to private interests.

4. Several major Federal installations have been added to nontaxpaying Federal property lists, including 900 units of naval dependent housing and a $44 million veterans hospital.

Impact aid is divided into three major categories representing the status of the federally connected students. To present the case for impact aid and to illustrate the program's operation, it is logical to handle each category separately.

Category A students, whose parents both live and work on Federal Government installations, are an obvious case for impact aid. No proposal has been made to eliminate Federal payment for category A students because it is recognized that there is a financial burden created with no corresponding property tax revenues. If the impact aid category A funding were removed, there would be no source from either the Federal employee's residence or business to replace the local contribution to education from property taxes.

The administration, in drafting the Better Schools Act, supports the payment for category A students, and includes a program providing "passthrough" payments to local school districts. It is important to note, however, that even the payment of category A impact aid does not meet the cost of education for students involved.

As an example, in San Diego the average cost of education per students was $966.39 in 1972–73 (which is close to the national average), while the payment for each category A student was $399.66. As you can see, approximately 41 percent of the cost of education for category A students was covered by impact aid.

In a summary of our category A situation, we can say:

1. Category A support plus State general aid combined do not cover the cost of educating the category A student.

2. The San Diego Unified School District has to draw from other sources, mainly local property taxes, to cover the difference between Federal and State aid and the cost per student.

3. The number of category A students in San Diego is estimated to increase as 1,200 additional naval housing units will have been completed from the date of our 1972–73 census.

4. Most important, category A impact aid funds replacement would require public approval of a measure to increase local property taxes by $.129 per $100 assessed valuation.

Category B represents those students whose parents work on Federal installations but who reside on private, taxpaying property. Public Law 874 provides that the entitlement shall be 50 percent of the "A" rate, since only the place of employment does not contribute to the local tax base. The 50-percent figure has generally been accepted as fair in major studies of impact aid. In California, Alan Post, the legislative analyst, reported that approximately 52 percent of the total property tax income was from nonresidential property. To state the problem directly, the parent's business does not pay its half of the local property tax bill.

Funding for category B students has been the greatest source of controversy in the impact aid program. The administration has not budgeted "B" funds for the current year or to pay for category B under the continuing resolution. Recently, various proposals and different methods have been advanced to eliminate or reduce category B payments. Congress has even authorized separate studies by two major private research organizations. Both studies generally concluded that category B payments were justified.

> Considerable controversy exists over whether the children who live in privately owned dwelling should ever give rise to Public Law 874 payments. Although the proposal was rejected by the Congress, the administration did recommend confining impact aid to 3(a) students in its fiscal 1970 budget proposals.
>
> * * * Battelle can find no logic to exclude payments for all of the (b) pupils. The analysis of economic burden developed in Chapter 2 would indicate that circumstances do exist where 3(b) pupils alone do place a burden upon a school system.

The Stanford Report has stated the same premise in similar words:

> It may be noted that once the burden principle is accepted, there is no reason to exclude Section 3(b) pupils from eligibility; these are pupils who live with parents who either live or work on federal property, but not both. They are almost entirely the latter, i.e., pupils whose parents work on federal property. Their eligibility rests upon the fact that school districts are generally unable to maintain, with reasonable effort, levels or expenditure derived only from residential property taxes. The burden is created by the absence of taxes on places of work. The burden in each district depends upon the balance of residential and business property in the district, and may be negligible for a predominantly bedroom community. Nevertheless, there is no justification in principle for excluding the 3(b) pupil from payment.

Category B has been challenged because the money "follows the child" rather than staying with the district that has the installation. San Diego would benefit from any regulation that would keep the money in the district where an installation is located. However, such regulation would not be fair to school districts that actually are carrying the burden of educating students even though an installation is outside such districts. If Federal installations were not located within commuting range of school districts, students probably would not even be living in the area.

Finally, it has been proposed that school districts absorb a certain percentage of category B student costs. This is on the grounds that districts should be expected to carry some of the Federal burden. The Battelle study reports that such absorption is proposed to reduce the total Federal budget outlays by removing districts that get only a small percentage of their income from impact aid. Somehow, absorption does not seem to be an honorable course of action for our Government to take in meeting its obligations. As Battelle concludes:

> The primary difficulty with absorption developed merely to reduce total budget outlays for impact aid is that it has no particular rationale in terms of an impact aid program.

San Diego, like other impact aid districts, is not getting a windfall from category B students. As shown in the chart on impact aid payments, the decline of B payment from nearly 100 percent to 54 percent of Public Law 874 entitlement has required our school district to absorb more of the cost of educating children from nontaxpaying Federal property. Impact aid income has decreased from 6.69 percent to 4.04 percent of the school district's budget. Although the loss has been gradual, the community is becoming aware that the local property taxpayer is subsidizing the Federal Government. Local attempts to replace lost category B funds would require asking the electorate to assume an increased property tax burden.

In San Diego, the 21,533 category B students are dependents of military and civilian personnel who work at the large number of Federal installations in the city and surrounding communities. During the 1972–73 school year, the actual dollar amount received and available for use by the district was $119.90 per B student, or only 12 percent of the cost of his education.

In conclusion:

1. San Diego is not receiving payment for category B students proportional to the total cost of $966.39 for educating category B students.
2. Category B is a necessary component of the school district's general educational financial support.
3. Category B payments received during 1973–74 amounted to only half of the half rate of category A.
4. Most important, replacement of category B impact aid funds would require a public vote approving an increase of property taxes by $0.149 per $100 assessed valuation.

Since the passage of Public Law 874 in 1950, the Federal Government has embarked on other programs which have increased the burden of local educational systems, while removing the taxable property that would meet this burden. In 1969, students residing in public housing were made eligible for impact aid payment and designated as "category C" students.

Once again, the need to provide adequate educational resources was considered essential ot the well-being of students. In the public housing program, the problem of concentration of large numbers of low-income families increased substantially the need for additional educational resources. As in the case of a military base, decisions regarding location, size, and type of public housing were not shared with local education authorities, and often they were not even consulted.

The Research Division of the Council of Great City School Districts estimate that nationally 1.1 million school-aged children are living in tax-exempt public housing and that provisions for payment in lieu of taxes under the various public housing laws provide reimbursement of only $20 to $25 per student in some school districts. The public housing burden is spread over the entire Nation in every size community in 410 congressional districts. In San Diego, our number of public housing students is very low since we are a relatively new urban area that has not engaged in extensive slum clearance programs. However, we believe that the uneven impact of Federal policy supports the need for furnishing relief proportionate to the burden of that policy.

Impact aid to provide facilities for the education of federally connected children has provided minimal funds in recent years. However, the need does exist, and a tremendous backlog has developed. Estimates suggest that as much as $300 million is needed for educational facilities in impacted areas. Each year school districts prepare Public Law 815 applications hoping that Congress will become aware of the school construction crisis and its effect on children of the Federal employee.

The public generally is not aware that the Government has been shifting military priorities and bases, and that a program of construction for military dependent housing has been pursued. In early February 1973, the San Diego city schools identified 18 school districts which had Federal construction programs of over 200 units of military dependent housing in a single project. The figure 200 was chosen to provide an adequate number of students necessitating a school facilities construction program. Eleven districts in Texas, Kansas, Rhode Island, Alabama, Delaware, South Carolina, Arizona, Nebraska, Georgia, and Hawaii responded with letters outlining serious facilities problems in providing for the federally connected children.

In San Diego we have just received a tentative award of $3.5 million to provide facilities for 1,377 of 2,233 students that will be housed in a 1,500-unit development located in an isolated area of the city. Our only alternative to this funding would have been inclusion of funds for these facilities in a school bond election. The San Diego city schools will soon make a fourth attempt since 1966 to meet community growth and earthquake safety school construction needs. It will be very difficult to sell voters on paying property taxes to build educational facilities for students whose parents and parents' employers pay no property taxes whatsoever, particularly at a time in which private developers are required to pay for the provision of elementary school facilities in new developments. Our problem is compounded when you realize that approval of a school bond issue requires a two-thirds "yes" vote.

Even more dramatic than the San Diego case is the unresolved problem of the Fallbrook Union School District which serves the large U.S. Marine Corps base of Camp Pendleton. On the base's northern limits there are 600 housing units currently under construction for marine families. The housing is far removed from any of the school district's existing elementary schools. However, it is only 2 or 3 miles from the Western White House at San Clemente. Children from this housing unit will have an excellent view of the western White House as they get on the bus to ride 20 miles to school.

An investigation of the impact of military construction and other Federal activity reveal that it is easy to find many comparable stories. For example, an Indian school administrator in Montana told us of Indian students going to high school in a barn. I realize that these may be extreme situations, but the need for school facilities is so obvious and clear-cut in many cases that the rationalizations of "no longer needed" or "it's a local problem" simply do not stand in the face of the Federal Government's responsibility to the Federal employee's child.

In conclusion, the operation of impact aid laws probably has been the most effective Federal assistance program for local school districts. Over the years, school administrators and board members have repeatedly made the following positive points in support of impact aid:

1. There is an absence of complex or rigid, restricting Federal guidelines;
2. There is an extremely small Federal staff, which is efficient, responsive, and helpful to local school districts;
3. There are no requirements to establish more than a limited administration for clearly defined clerical tasks at the local level;
4. There is local determination of priorities for the use of the funds;
5. It contains the most effective and lowest cost delivery system in the Federal-local government relationship regarding education;
6. Above all, payment is based on service provided and truly represents an equitable formula for revenue sharing should this be the direction of Federal support for education in the future.

Senator PELL. Thank you very much indeed.

Senator BEALL. I believe you said in your statement that your real property is assessed at 25 percent of the actual assessed value? What is your tax rate?

Mr. GOODMAN. Around $4.89.

[The prepared statement of Mr. Goodman follows:]

Subcommittee on Education

of

Senate Committee of Labor and Public Welfare

Testimony on Impact Aid

Public Law 874 and Public Law 815

Thomas L. Goodman
Superintendent
San Diego Unified School District
San Diego, California

Impact aid as provided through Public Law 815 and Public Law 874 represents the federal government's acceptance of the responsibility imposed at the local level by federal activities which require local educational services.

> The federal government is the nation's largest property owner and employer, yet the effects of the presence of a federal installation upon a community differ from those of other installations. The report of the Committee on Education and Labor to the House of Representatives accompanying H.R. 7940, which became P.L. 874 in 1950, states "the United States has become an industrialist, a landlord, or a businessman in many communities of the nation without accepting the responsibility of the normal citizen in a community, because property under federal ownership or control is generally not subject to local taxation." P.L. 874 and 815 were designed to correct this condition with regard to the financial burdens imposed upon local school districts.[1]

In the 23 years since the passage of impact aid in Public Law 874 and Public Law 815 the basic premise summarized above by the Stanford Research Institute in the federally commissioned report to the Office of Education has not changed. Originally created after World War II in recognition of the increasing federal activities, impact aid has become a basic support to the general education program of school districts that receive large numbers of children brought into their communities by federal activity. The federal government, through its shifting of priorities, changing levels of activity, and in some areas continued maintenance of high levels of federal activity, has made the need for a dynamic response such as the impact aid program essential to the financial stability of local school districts. The basic premise of the program cannot be avoided. School districts will continue to require assistance in providing educational services to children when local property tax revenues are not available for support of education.

Again in 1973, Congress is considering authorizing legislation for impact aid. Today it is my purpose to present the case for impact aid. The focus of my testimony

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1. Entitlements for Federally Affected School Districts under Public Laws 874 and 815 prepared for: U.S. Dept. of Health, Education and Welfare, Office of Education, Washington, D.C., Contract OE-5-99-046, Volume I. Stanford Research Institute, Menlo Park, California, May 1965.

will be on my district--both because I know the facts and because the San Diego City Schools can serve as a representative model for illustrating the importance of impact aid to local school districts.

San Diego is a valid case study for P.L. 874 as a community heavily committed to the defense facilities of this country and, at the same time, a large urban area including the wide spread of the American people from rich to poor, with representative proportions of the majority and minority populations. San Diego's problems are not unique and we would like to think that the public educational response has been the best possible within the limitations of community resources and the challenges of a diverse and mobile society. The school district's spending for public education is very close to the national average, and the district's property tax base is relatively low for its size and need. The loss of impact aid benefits to San Diego would mean that children served by the school district would be severely penalized. Impact aid is a basic component to the school district's financial needs but, while it represents a small percentage of general income, the loss of impact aid could only be recovered by increasing the burden on the local property taxpayer or reduction of the educational program.

San Diego does have a large federal population, resulting from over 15 military bases within the school district's boundaries, with land alone valued at over $700 million by the County Assessor two years ago. Since that time property assessments have increased on a city-wide average by over 25% and, with other government properties included, federally owned lands can be conservatively evaluated at over one billion dollars.

At the current school tax rate, a rough calculation indicates that federal property would provide a minimum of $10 million revenue to our school district. However, the figure is meaningless since under current school finance formulas the addition of tax exempt federal properties would increase the tax base and only provide a substantial reduction in the local tax rate.

I believe that Public Laws 874 and 815 offer a better solution than previously proposed payment in lieu of taxes since payment is based on the number and type of federally connected children served by a school district. Basing payment on services provided to the children of federal employees is equitable to districts where federal employees live, and provides that federal dollars follow the child and support the educational program he receives. Finally, the record keeping and the administration of the program are much simpler because they are based on counting children rather than evaluating real estate.

The chart that follows (Page 4) indicates the recent history of the San Diego Unified School District's impact aid receipts. Several basic observations can be made:

1. The district gradually has been absorbing the costs of education formerly supported by impact aid.
2. Federal responsibility has not remained consistent with the burden placed on the local school system.
3. No substantial additions have been made to local tax rolls by way of federal property transfers to private interests.
4. Several major federal installations have been added to non-taxpaying federal property lists, including 900 units of Naval dependent housing and a $44 million veterans hospital.

Impact aid is divided into three major categories representing the status of the federally connected students. To present the case for impact aid and to illustrate the program's operation, it is logical to handle each category separately.

FEDERAL IMPACT AID TO SAN DIEGO CITY SCHOOLS, 1966-67 to 1972-73

Year	Federal ADA for 3(a)'s	Federal ADA for 3(b)'s	Proration	Rate	Total Receipts	Percent of District ADA	Percent of District G.F. Budget
1966-67 (Actual)	5,376	26,010	3(a)'s @ 98.7% 3(b)'s @ 98.7%	$305.66 $152.83	$5,529,918	25.30%	6.69%
1967-68 (Actual	5,579	26,484	3(a)'s @ 98.0% 3(b)'s @ 98.0%	$315.03 $157.515	$5,810,595	25.13%	6.33%
1968-69 (Actual)	5,804	26,432	3(a)'s @ 91.7% 3(b)'s @ 91.7%	$346.02 $173.01	$6,035,052	25.05%	5.80%
1969-70 (Actual)	6,083	25,239	3(a)'s @ 84.7% 3(b)'s @ 84.7%	$364.69 $182.345	$5,777,148	23.62%	5.74%
1970-71 (Actual)	6,010	23,531	3(a)'s @ 90.0% 3(b)'s @ 74.5%	$417.49 $208.74	$5,917,539	22.21%	5.37%
1971-72 (Actual)	6,076	22,164	3(a)'s @ 90.0% 3(b)'s @ 73.0%	$450.32 $225.16	$6,105,555	21.42%	5.08%
1972-73 (Estimated)	5,620	21,553	3(a)'s @ 90.0% 3(b)'s @ 54.0%	$493.41 $246.70	$5,366,914	21.03%	4.04%

Note: Receipts may not be included in the fiscal year indicated due to payment in a subsequent fiscal year. (Example: 1972-73 receipt of $5,366,914 will be partially received in 1973-74 fiscal year)

Category A Students

Category A students, whose parents both live and work on federal government installations, are an obvious case for impact aid. No proposal has been made to eliminate federal payment for Category A students because it is recognized that there is a financial burden created with no corresponding property tax revenues. If the impact aid Category A funding were removed, there would be no source from either the federal employee's residence or "business" to replace the local contribution to education from property taxes.

The Administration, in drafting The Better Schools Act, supports the payment for Category A students, and includes a program providing "pass through" payments to local school districts. It is important to note, however, that even the payment of Category A impact aid does not meet the cost of education for students involved. As an example, in San Diego the average cost of education per student was $966.39 in 1972-73 (which is close to the national average), while the payment for each Category A student was $399.66.[2] As you can see, approximately 41% of the cost of education for Category A students was covered by impact aid.

In a summary of our Category A situation, we can say:

1. Category A support plus State general aid combined do not cover the cost of educating the Category A student.
2. The San Diego Unified School District has to draw from other sources, mainly local property taxes, to cover the difference between federal and State aid and the cost per student.
3. The number of Category A students in San Diego is estimated to increase as 1,200 additional Naval Housing units will have been

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[2] The chart on Page 4 shows a 100% entitlement rate of $493.41 with an appropriated payment of 90%, or $444.00. Actual income available for use by the district during the 1972-73 school year was $399.66 per Category A student. The remaining 10% of the entitlement may be received during the 1973-74 school year, although past history has proved that school districts have no guarantee of the date or payment.

completed from the date of our 1972-73 census.

5. Most important, Category A impact aid funds replacement would require public approval of a measure to increase local property taxes by $.129 per one hundred dollars assessed valuation.

Category B Students

Category B represents those students whose parents work on federal installations but who reside on private, taxpaying property. P.L. 874 provides that the entitlement shall be 50 percent of the "A" rate, since only the place of employment does not contribute to the local tax base. The 50 percent figure has generally been accepted as fair in major studies of impact aid. In California, Alan Post, the Legislative Analyst, reported that approximately 52% of the total property tax income was from non-residential property. To state the problem directly, the parent's "business" does not pay its half of the local property tax bill.

Funding for Category B students has been the greatest source of controversy in the impact aid program. The Administration has not budgeted "B" funds for the current year or to pay for Category B under the Continuing Resolution. Recently, various proposals and different methods have been advanced to eliminate or reduce Category B payments. Congress has even authorized separate studies by two major private research organizations. Both studies generally concluded that Category B payments were justified.

> Considerable controversy exists over whether the children who live in privately owned dwelling should ever give rise to Public Law 874 payments. Although the proposal was rejected by the Congress, the administration did recommend confining impact aid to 3(a) students in its fiscal 1970 Budget proposals.
> ...... Battelle can find no logic to exclude payments for all of the (b) pupils. The analysis of economic burden developed in chapter 2 would indicate that circumstances do exist where 3(b) pupils alone do place a burden upon a school system.[3] p.68

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[3] Final Report: School Assistance in Federally Affected Areas, A Study of Public Laws 81-874 and 81-815 to Office of Education, Department of Health, Education and Welfare by Harold A. Hovey, Victor P. Carter, Linda R. Brown, John A. Bowman, Seymour Goldstone, and Frederick D. Stocker. Battelle Memorial Institute, Columbus Ohio, December 1969.

The Stanford Report has stated the same premise in similar words:

> It may be noted that once the burden principle is accepted, there is no reason to exclude Section 3(b) pupils from eligibility; these are pupils who live with parents who either live or work on federal property, but not both. They are almost entirely the latter, i.e., pupils whose parents work on federal property. Their eligibility rests upon the fact that school districts are generally unable to maintain, with reasonable effort, levels of expenditure derived only from residential property taxes. The burden is created by the absence of taxes on places of work. The burden in each district depends upon the balance of residential and business property in the district, and may be negligible for a predominantly bedroom community. Nevertheless, there is no justification in principle for excluding the 3(b) pupil from payment.[4]

Category B has been challenged because the money "follows the child" rather than staying with the district that has the installation. San Diego would benefit from any regulation that would keep the money in the district where an installation is located. However, such regulation would not be fair to school districts that actually are carrying the burden of educating students even though an installation is outside such districts. If federal installations were not located within commuting range of school districts, students probably would not even be living in the area.

Finally, it has been proposed that school districts "absorb" a certain percentage of Category B student costs. This is on the grounds that districts should be expected to carry some of the federal burden. The Battelle study reports that such absorption is proposed to reduce the total federal budget outlays by removing districts that get only a small percentage of their income from impact aid. Somehow, absorption does not seem to be an honorable course of action for our government to take in meeting its obligations. As Battelle concludes:

> The primary difficulty with absorption developed merely to reduce total budget outlays for impact aid is that it has no particular rationale in terms of an impact aid program. p.112

San Diego, like other impact aid districts, is not getting a windfall from Category B students. As shown in the chart on impact aid payments, the decline of

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[4] Stanford Report, p.8

"B" payment from nearly 100 percent to 54 percent of P.L. 874 entitlement has required our school district to absorb more of the cost of educating children from non-taxpaying federal property. Impact aid income has decreased from 6.69% to 4.04% of the school district's budget. Although the loss has been gradual, the community is becoming aware that the local property taxpayer is subsidizing the federal government. Local attempts to replace lost Category B funds would require asking the electorate to assume an increased property tax burden.

In San Diego, the 21,533 Category B students are dependents of military and civilian personnel who work at the large number of federal installations in the city and surrounding communities. During the 1972-73 school year, the actual dollar amount received and available for use by the district was $119.90 per "B" student, or only 12% of the cost of his education.[5]

In conclusion:

1. San Diego is not receiving payment for Category B students proportional to the total cost of $966.39 for educating Category B students.
2. Category B is a necessary component of the school district's general educational financial support.
3. Category B payments received during 1972-73 amounted to only "half of the half rate of Category A."
4. Most important, replacement of Category B impact aid funds would require a public vote approving an increase of property taxes by $.149 per one hundred dollars assessed valuation.

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[5] Our 1972-73 payment was 90 percent of 54 percent as originally designated, which subsequently has been increased to the 68 percent originally appropriated. To date, however, the school district has not received the second payment. The additional funds appropriated will only increase the payment per "B" student by $31.08.

Category C Students

Since the passage of Public Law 874 in 1950, the federal government has embarked on other programs which have increased the burden of local educational systems, while removing the taxable property that would meet this burden. In 1969, students residing in public housing were made eligible for impact aid payment and designated as "Category C" students. Once again, the need to provide adequate educational resources was considered essential to the well-being of students. In the public housing program, the problem of concentration of large numbers of low-income families increased substantially the need for additional educational resources. As in the case of a military base, decisions regarding location, size, and type of public housing were not shared with local education authorities, and often they were not even consulted.

The Research Division of The Council of Great City School Districts estimates that nationally 1.1 million school aged children are living in tax-exempt public housing and that provisions for payment in lieu of taxes under the various public housing laws provides reimbursement of only $20 to $25 per student in some school districts. The public housing burden is spread over the entire nation in every size community in 410 congressional districts. In San Diego, our number of public housing students is very low since we are a relatively new urban area that has not engaged in extensive slum clearance programs. However, we believe that the uneven impact of federal policy supports the need for furnishing relief proportionate to the burden of that policy.

Public Law 815

Impact aid to provide facilities for the education of federally connected childrec has provided minimal funds in recent years. However, the need does exist, and a tremendous backlog has developed. Estimates suggest that as much as $300 million is needed for educational facilities in impacted areas. Each year school districts prepare P.L. 815 applications hoping that Congress will become aware of the school construction crisis and its effect on children of the federal employee.

The public generally is not aware that the government has been shifting military priorities and bases, and that a program of construction for military dependent housing has been pursued. In early February, 1973, San Diego City Schools identified eighteen school districts which had federal construction programs of over 200 units of military dependent housing in a single project. The figure 200 was chosen to provide an adequate number of students necessitating a school facilities construction program. Eleven districts in Texas, Kansas, Rhode Island, Alabama, Delaware, South Carolina, Arizona, Nebraska, Georgia, and Hawaii responded with letters outlining serious facilities problems in providing for the federally connected children.

In San Diego we have just received a tentative award of $3.5 million to provide facilities for 1,377 of 2,[illegible] students that will be housed in a 1,500-unit development located in an isolated area of the city. Our only alternative to this funding would have been inclusion of funds for these facilities in a school bond election. The San Diego City Schools will soon make a fourth attempt since 1966 to meet community growth and earthquake safety school construction needs. It will be very difficult to sell voters on paying property taxes to build educational facilities for students whose parents and parents' employers pay no property taxes whatsoever, particularly at a time in which private developers are required to pay for the provision of elementary school facilities in new developments. Our problem is compounded when you realize that approval of a school bond issue requires a two-thirds "yes" vote.

Even more dramatic than the San Diego case is the unresolved problem of the Fallbrook Union School District which serves the large U.S. Marine Corps base of Camp Pendleton. On the base's northern limits there are 600 housing units currently under construction for Marine families. The housing is far removed from any of the school district's existing elementary schools. However, it is only two or three miles from the Western White House at San Clemente. Children from this housing unit will have an excellent view of the Western White House as they get on the bus to ride 20 miles to school.

An investigation of the impact of military construction and other federal activity reveals that it is easy to find many comparable stories. For example, an Indian school administrator in Montana told us of Indian students going to high school in a barn. I realize that these may be extreme situations, but the need for school facilities is so obvious and clear-cut in many cases that the rationalizations of "no longer needed" or "it's a local problem" simply do not stand in face of the federal government's responsibility to the federal employee's child.

In conclusion, the operation of impact aid laws probably has been the most effective federal assistance program for local school districts. Over the years, school administrators and board members repeatedly have made the following positive points in support of impact aid:

1. There is an absence of complex or rigid, restricting federal guidelines;
2. There is an extremely small federal staff, which is efficient, responsive, and helpful to local school districts;
3. There are no requirements to establish more than a limited administration for clearly defined clerical tasks at the local level;
4. There is local determination of priorities for the use of the funds;
5. It contains the most effective and lowest cost delivery system in the federal-local government relationship regarding education;
6. Above all, payment is based on service provided and truly represents an equitable formula for revenue sharing should this be the direction of federal support for education in the future.

Senator PELL. Mr. Fleischauer.

STATEMENT OF DR. DEAN FLEISCHAUER, SUPERINTENDENT, FOUNTAIN/FORT CARSON PUBLIC SCHOOL DISTRICT, EL PASO COUNTY SCHOOL DISTRICT NO. 8, FOUNTAIN, COLO.

Mr. FLEISCHAUER. Mr. Chairman, if I may, I was accompanied here by Howard R. Dunning, superintendent, Air Academy School District No. 20 of the U.S. Air Force Academy.

Senator PELL. We are more than glad to have him appear. I would appreciate it, Dr. Dunning, if you would take a seat at the table.

Mr. FLEISCHAUER. Also I have submitted printed testimony and I will simply point out some of the high points.

I think something for the committee members to understand relative to Public Law 874 is the degree of impaction that comes about to various districts across the country. As I understand there are some 4,200 districts that are federally impacted districts, but basically there are only about 35 or 40 that are really highly impacted.

Mr. Dunning and I represent districts that go up to 80 percent of impaction, so we are certainly very, very much concerned with the continuation of Federal impact legislation.

In my own district because of the degree of land that is owned by the Federal Government we only have $2,000 of assessed evaluation per student. When you are putting this back in mil levies you are only talking about for each mil we raise for the public schools about $2 per mil per student.

We all realize that with the cost of education it is not very much coming from the local effort. We simply do not have the ability to do so.

Also within districts that are highly impacted, such as Mr. Dunning's and my own, we are talking about up to 50 percent from 33 percent to 50 percent of our total budget which comes to us from Federal impaction, and when we are talking about any type of proration such as we have had for the last several years, it means a drastic cut in the amount of money that is coming to us which is of real concern to us. So we are certainly concerned when any type of proration comes to us.

When you are talking of up to 50 percent coming from Federal funding, it really concerns you.

I think also something that the committee needs to understand is the variations within the 4,200 districts that receive Federal impact funding in regard to the various types of B category students. Within my district the majority of my B category students are military dependents. They live in mobile homes most of the time.

In the State of Colorado mobile homes provide nothing as far as taxes are concerned, and I will also state as the gentlemen from California stated, these people do actually nothing for the benefit of the local community. Everything is purchased from the post, from the PX and the commissary. They receive all their health and dental aid there, so actually they are deficits to the community as far as tax purpose.

I certainly urge the matter of the B student that there be some consideration given to the type of individual that you are talking about in reference to the B category.

As I look at Federal impact legislation, I would say it has been good legislation. That money comes back to the districts, and it is provided to the boards of education as they see fit in providing for education of the youngsters, but I realize also that we cannot follow a hard-headed approach. We have to be political, practical, and realistic, and consequently for this reason I do back my own Senator from the State of Colorado, and also a member of your committee, Senator Dominick, in his proposal on legislation or pending legislation for impact aid [S. 1813].

That is the matter of the eventually cutting back on some of the uses under Public Law 874.

I realize that we have had critics of Public Law 874 for a number of years. The past four Presidents have attempted at some time or other to make some cutbacks in Public Law 874, so I know there are many critics of this legislation.

One of the things that I think is really good about Senator Dominick's proposal is that it is not going to be any drastic cutback at one time, but we will be able to prepare somewhat for it if this type of legislation does go through.

I also, as a prior witness stated, feel that it is of real importance for your committee to consider that you allow anything to be written into the law to take away from any State aid that comes about. Within own State of Colorado—and I think we can go nationwide on this—I am certain the other gentlemen will back me up on this—in almost all cases the highly impacted districts spend considerably less per student than what you find in the normal district.

In the Air Force Academy district each district spends less per child then the State average, and we are over $600 less than the city of Denver which is the biggest school district in our State.

We spend over $600 less per child than in the city of Denver. So I certainly urge that you not allow anything to come up in the legislation to subtract from anything we get from State aid.

I go back then. When you only obtain $2 per child, you do not have anything to begin with.

I also would put in a real plea for the continuation of Public Law 874 funds, again within the highly impacted districts, within the States such as my own, where you do not have any State funding for school construction, and it is impossible to provide the needed funds for construction.

I think one thing that I certainly needed is continuity and funding, and we certainly have had problems over the last few years in having funds provided that we can do anything with budgetwise on a normal type of basis. Whenever we have proration of funding it certainly hurts.

I certainly do want to take this opportunity to thank the committee for listening to my testimony, and Mr. Dunning and I will certainly answer any questions that you may have concerning our testimony.

Senator HATHAWAY. Thank you very much. I just want to ask a few questions in regard to categories C and B in particular.

It seems to me in regard to "C's" that in the first place public housing is making some kind of contribution in lieu of taxes, and title I of the Elementary and Secondary Education Act says all these childen would be counted for its purposes so that the local school district is getting some money based on those students.

It does not seem to me there is too much justification for C's. When you get to the B's you have a different situation however, such as in Metropolitan Washington where Federal employees are in no different position from any other persons, and yet the school districts in this area are getting B money. On the other hand, there are situations, as you pointed out, where the B category people are buying all their things on the base and they really do not make any contribution to the local economy. I suppose in that case there is justification for B's.

I wonder if you have given any thought to some method upon which we could simply allow the local communities to tax Federal property on some equitable basis. I realize of course you would love that because you would get 10 times as much money as you are getting now. I do not think that would actually be justified, but I think there must be some basis that would be an equitable basis and provide local communities with the money that they are actually losing.

Mr. GOODMAN. There is only one problem. In California not even State or city or county properties are taxed, so I do not know how we could begin by taxing the Federal Government when we do not tax ourselves.

I know what you are saying, and I guess that is the purpose of Public Law 874 funds because we cannot tax the Federal Government.

Second, you do make a very correct observation that we do have title I money for the youngsters who would be there by virtue of public housing. The only thing, as you probably know, we only have enough title I money for about one-fourth of the youngsters who are eligible.

In my district we have some 30,000 youngsters who are identified as low-income youngsters who under the old guidelines of title I could qualify.

Senator HATHAWAY. But if title I were fully funded, then there would not really be any need for C money, would there? There would not be any justification for it?

Mr. ELDRED. There might be to this extent, that the title I moneys are earmarked for certain problem areas and are not really operation and maintenance funds as the B money's are. That does go into the general fund to buy textbooks, or whatever the general need is for that child.

As Dr. Goodman pointed out, title I is more direct education and needs directed by the Federal Government as is deemed necessary.

Senator HATHAWAY. Do you have any comments?

Mr. FLEISCHAUER. I have no comment on C's.

Senator HATHAWAY. How about on some basis to tax the property?

Mr. FLEISCHAUER. Oh, fine, I would be highly in favor of it.

Senator HATHAWAY. I do not know how you would figure up the fair market value of the Pentagon.

Mr. ELDRED. The Pentagon is a very useful structure for its purpose, but if it is not used by the Department of Defense, I do not know what kind of business could utilize that.

I should say that should you revert to an in-lieu-tax situation, you have just made me a very rich district, and I would thank you for it, but my neighbor close by would have all those buildings and go out of business.

Senator **Hathaway**. But if an industry moved into your area?

Mr. **Eldred**. It is to this extent. In California, 54 percent of the taxable base is industry and commercially raised money. The State income tax, property tax, other local contributions, are partially returned to education and to other needs the State has deemed necessary, so I still see the needs.

Senator **Hathaway**. Would it not be possible to devise a formula where you could compute in all those factors but just allot taxes as a result of the Federal installations in the area?

Mr. **Eldred**. Possibly, yes; probably, no; because of the differences in the 50 States. A single formula would become a monster to administer.

The present system is very unique. There are very few people here in Washington to administer that program. The service is for the child, and not a great sum is being spent to administer it.

Mr. **Fleischauer**. We believe it is very good legislation.

Mr. **Eldred**. The people who thought of this, not only in the 1950's, had foresight, but this was a takeoff from 1941. It simply grew into impact aid as we now know it. I see very little difference today in the situation than that which existed in 1950. The basic premise is still found, payment for service rendered to a child.

Now, the impact begins on our discretion with the very first child. Of course, it is minor, but the impact is there. The State money should slow in somewhat equal proportion, but as we pointed out, the unit rate used in Public Law 874 formulas is 2 years old at best, and the amounts of money come from supplying the total educational needs of that child. There is still great input by the States in the local communities.

I put this in my testimony on page 7. Sometimes at a PTA a person will stand up and say, why should I pay more school taxes just to give a free education to children whose parents or employer are paying nothing in local taxes and little if anything in State taxes? That is difficult to answer. It just cannot be done.

Mr. **Fleischauer**. I can verify that, too. We had an open hearing on a bond issue, and questions of a similar nature came up.

I think in so many of our districts we have to keep a close cooperative spirit between civilian and military or we are dead. I would surely back up what you have to say there.

Senator **Hathaway**. This does happen with a lot of the civilian moneys, and it seems to me you have to have an equitable distribution of funds, some differentiation between the two areas when you are talking about A's or B's.

Mr. **Eldred**. There is perhaps differentiation to the degree of impaction. That perhaps would be a reasonable modification that could be looked at and worked toward. I would think that the proposals now which are aimed at getting at this problem that is proposed would be far worse than the present illness.

Senator **Hathaway**. You mean just eliminating B's?

Mr. **Eldred**. I think you are hurting 98 percent, to get at a small percentage of the problem. Even in the richer counties, as pointed out, there is some justifiable impact. In fact I would have to propose that should the Federal Government not have located here—I do not mean to insult our good local communities—I would find very little need for those to exist in their present size today.

Senator **Hathaway**. That is true. Thank you very much.

Senator **Pell**. Senator Stafford.

Senator **Stafford**. Thank you, Mr. Chairman. I want to express appreciation from the minority for the presence of all four of the witnesses who are in front of us at the present time, and I have no particular questions. I think all the statements have been very helpful to us, and they have been an education.

I do have some questions from Senator Dominick who very much regrets that he was unavoidably absent today and would not be able to be here and put these questions personally. I will turn these questions over to the committee, and I understand Dr. Fleischauer and Mr. Dunning already have copies of the questions.

I would request for the committee and for Senator Dominick that you supply your answers in writing for the record. If you will do that?

Mr. **Fleischauer**. We certainly will.

[The prepared statement of Dr. Fleischauer, questions and answers referred to, and other material subsequently supplied for the record, follows:]

TESTIMONY ON PROPOSED LEGISLATION
FOR PUBLIC LAWS 815 AND 874

Presented by

DEAN FLEISCHAUER, SUPERINTENDENT
FOUNTAIN-FORT CARSON PUBLIC SCHOOL DISTRICT
EL PASO COUNTY SCHOOL DISTRICT NUMBER EIGHT
400 WEST ALABAMA AVENUE
FOUNTAIN, COLORADO 80817

To

THE UNITED STATES SENATE
COMMITTEE ON LABOR AND PUBLIC WELFARE
EDUCATION SUBCOMMITTEE TO THE FULL COMMITTEE
SENATOR CLAIBORNE PELL

September 14, 1973

My name is Dean Fleischauer and I am the Superintendent of the Fountain-Fort Carson Public School District in the State of Colorado. Thus, I represent one of the approximately 4,200 school districts in the United States which receives "federal impact funding". However, I also represent a school district which is truly "heavily" impacted -- one of approximately 30 to 35 such school systems located in the country -- so "heavily" impacted that every phase of our operational and construction programs are seriously curtailed whenever there is any "proration" of federal impact funds.

It is interesting to note that the 30-35 school districts which can be classified as "heavily" impacted systems are not large or even relatively so when compared to large city school districts. Rather, they are primarily small districts located in "fringe" areas where almost the entire center of activity is based upon the federal installations located within their boundaries. These school systems are also primarily the same school districts where the Department of Defense is currently involved in providing more "on-base" housing for military personnel which in turn will help to create even more "federal impaction".

Federal impact legislation is very vital to the continued operation of "heavily" impacted school districts -- such as the one I represent. I certainly do not have any "qualms" with the existing legislation as I believe it has been a true attempt by the Federal

Government to provide funding for school districts which are unable to tax the federal installations located within their boundaries. The legislation also permits the funds received to be "administered" by the locally elected board of education without any real "hangups" created by "federal overseers". The only problem with the existing legislation has been the "proration" of funding. For the last several years, the "B" portion of this legislation has been funded at only a partial rate of "entitlement" (i.e. hopefully 68% for 1972-73, 73% for 1971-72; 70% for 1970-71). This "proration" of funding has placed a tremendous "strain" upon the highly impacted school districts (such as my own) and has made it impossible to have a "meaningful" budget. Without this "anticipated" revenue, my school district has operated on "deficit funding" for the last two budget years.

The logical reasoning is to assume that this matter then becomes the "responsibility" of the local taxpayer. This isn't easily accomplished in a highly impacted school district. The "assessed valuation" is so low (due to the preponderance of federal property) that it amounts to only $2,000 per enrolled student. Consequently, for each additional mill levied, only $2 per student is received. With educational costs approximating $900, it is easy to ascertain that it is impossible to "tap this source" for additional revenue.

The problem is further compounded (with current legislation) when a study is made of the vast differences in the "makeup" of the 4200 federally impacted school districts. Some of the federal impact districts enroll only "civilian B" students. The vast majority live in above average homes and the occupants are real benefits to the local government and school program. On the "other side of the coin" are the highly impacted school districts such as my own. The majority of our students (55-60%) are "A" category pupils. Another 20-25% are "B" category pupils who are primarily the dependents of military personnel. For the most part, these individuals live in mobile homes (a source which provides no tax source for the school district), in tiny apartments, or in "cheap" housing. These military people conduct almost all of their "business" at the "PX" and "Commissary" on Fort Carson. Thus, they are contributing little if any tax to the school district (from their place of residence) and since almost all "business" is conducted on Fort Carson, the "normal type of business operations" in Fountain are almost "nil". Consequently, this also must be regarded as another "tax loss" to our "community" and "state".

Therefore, the "federal impact students" residing in a highly impacted district such as my own, carries with it a much different "meaning" from a school district described above. Thus, when "proration" of funding comes to a highly impacted district, it is almost impossible to replace it with other funds.

Your "Committee" has the responsibility of considering some authorizing legislation for "federal impact funding". My own Colorado Senator (Honorable Peter H. Dominick) -- and a member of your Committee -- has introduced legislation directed to this subject. His proposed legislation is geared toward continuing to pay 100% of entitlement for the "A" category pupils. A school district would receive 100% of entitlement for the first year that a "B" category pupil was enrolled in the system with a decrease of entitlement of 20% for each succeeding year that that student remained. Consequently, after a five year period, a "B" category student would not be "funded". For each "new" student classified in the "B" category, his status would be initiated at the date of his school entry.

To be truly honest on the matter, I would support a continuation of existing legislation. I do believe that it has been very instrumental in aiding seriously impacted school districts to be able to continue an educational program. However, as a Public School Superintendent, I must also be "practical". I well realize that the last four Presidents (equally representing both political parties) have attempted to make serious cutbacks in the total federal impact program. I also realize that the existing legislation has not been "funded" to its full entitlement -- and this has created serious problems for the highly impacted districts. Additionally, I am positive that all members of Congress do not realize the "vast differences" that exist in the school districts currently covered by federal impact legislation (as I have attempted to describe in an earlier portion of my testimony).

Consequently, by following this "realistic approach", I (and my Board of Education) are wholeheartedly in support of Senator Dominick's proposed legislation. However, I sincerely urge that if this legislation is enacted, that Congress makes certain that sufficient funds are appropriated to ascertain complete funding of all aspects of the "bill". This would mean that the "A" category pupils would be funded at 100% of entitlement. The "B" category students would be funded at the "percentage level" so listed in the proposed legislation. I am positive that my school district could realistically "live" with this type of situation because we would "know" what our "entitlement" would be (and we would not have to attempt to "guess" what the "proration" would be as under existing legislation). I am also "realistic" enough to realize that Senator Dominick's proposed legislation will "quiet" many critics of federal impact funding and also enable school districts to "plan ahead" knowing "full well" what the federal funding will be. Thus, federal funding will not come as a complete surprise (as is now the case) and alternative measures can be adopted (more than a year in advance). Additionally, I have to fully agree with Senator Dominick that if a family lives in a school district for five consecutive years, that they should start to become "contributing members" to that community.

Consequently, I offer this "testimony" in complete support of Senator Dominick's proposal. Federal impact legislation will always have some "critics" and it will be an utter impossibility for you to be able to appease all participants in all fifty states. I urge you to keep one item foremost in mind. Almost without exception, the truly highly impacted districts spend considerably less per student than other school districts. In my own State of Colorado, the "state average" is over $1,000 -- the Denver School District is over $1,400 -- while my own is about $900. Consequently, I would suggest that you not incorporate any measure in the new legislation which would "subtract" any portion of the "federal impact monies" from those that the school district is receiving from its "state government". Give us a "chance" to "pull up to the state average" -- at least. The only exception to this, of course, would be if the "state" was underwriting the entire cost of the educational program.

I would also urge that you seriously consider the "extension" of legislation for Public Law 815. Again -- a heavily impacted school district -- such as my own -- simply cannot provide the needed construction funds to cope with the increased number of students coming to us. Fort Carson continues to build "on-post" family housing units (200 are currently under construction with 300 more to start in December). Thus, the "dilemma" confronting my district is very acute. When you must educate 3,600+ students and provide school facilities for new students residing in housing on a military reservation from an assessed school district valuation of only $7,017,760 -- you have "problems". To complicate the matter even more, the State of Colorado does not provide any financial aid for the construction of school facilities and the State Constitution limits "bonded indebtedness" to 15% of the assessed valuation. My school district needs additional school buildings. My school district needs federal impact funding to provide the daily operation of the school system. It is a "must" to create as strong a "cooperative spirit" between the civilian and military components of the school district as possible. Thus, when the Board of Education "requests" that the civilian component of the school district approve another "bond issue" (next one on September 18th), they must also be assured that the Federal Government is providing "federal impact funds" for the "military component" of the district.

In conclusion, I hope that my testimony has established for you the importance of federal impact legislation upon a highly impacted school district. This problem is being further compounded with each additional "federal impact" student we enroll (as more housing on Fort Carson and adjacent private property becomes available). Therefore, I request your sincere consideration of Senator Dominick's proposal and a plea to also continue Public Law 815.

Thank you very much for allowing me the opportunity to present this testimony to your Committee.

BEST COPY AVAILABLE

School District No. 8
El Paso County

FOUNTAIN-FT. CARSON PUBLIC SCHOOLS · 400 WEST ALABAMA, FOUNTAIN, COLO. 80817 · PHONE 303-382-5631

September 17, 1973

The Honorable Peter H. Dominick
The United States Senate
Washington, D. C. 20510

Dear Senator Dominick:

Following my testimony before the Education Subcommittee on September 14th, I was requested to answer (in writing) the below listed questions so that this information could be added to my "testimony". The questions are as follows:

1. Is your situation typical of other high impaction districts and would they agree with your testimony?

   There are only approximately 35 school districts in the entire nation that are classified as real high impaction districts (over 70%). Basically, these school districts are very similar to my own (Fountain-Fort Carson) and they would be in agreement with my testimony. However, to be truly honest and objective on the matter, I must also report that the difference in "state" and "local" funding procedures makes it an impossibility to get complete agreement from each of these districts. I am certain that most of the districts would rather see a continuation of current legislation. However, if changes need to be made, the high impaction districts would most like to see full entitlement for "A" category students, a priority of funding for the "B" category students, giving preference to the high impaction districts. Preferential treatment for military "B's" over civilian "B's", or a systematic decrease in funding for "B" category students based on the length of their residency within that school district.

2. Is the key to your problem really consistency of funding rather than degree of impaction?

   The questions of "degree of impaction" and "consistency of funding" are interlocked. For a highly impacted district (such as ours, with over 80% impaction), any type of "proration of funding" presents a very serious problem. For the last three years, funding has ranged (for the "B" students) from 68%-78%. It would be most logical to assume that if we could be assured "consistency of funding" (without any prorations), it would make the task of creating a budget and then interpreting the school program by use of the budget, a much simpler task.

3. Why is prorationing such a problem? Are your budgets based on full funding in spite of past experiences with the program?

When federal impact funds are prorated, it creates a much more serious problem to the highly impacted districts. As indicated previously, only about 30-35 school districts in the entire country are what you would classify as highly impacted districts. In almost all of the others, federal impact funds provide only a minor portion of the total amount needed to fund a budget. However, in a school district such as my own (Fountain-Fort Carson) from 33%-50% of the total school budget is obtained from Public Law 874. It is thus easy to see why the prorating of funds presents a problem. It immediately creates a financial situation whereby it is impossible for a school district to have any means to make up the lost revenue. Again, in my school district, an increase of one mill in school levy means only $2.00 per pupil. This is true because the majority of the school district is owned by the federal government and is not on the tax roll. Consequently, any proration of federal impact funds (for a highly impacted school district) presents a very serious problem. This could be alleviated by providing some means of funding which would give "priority" to the highly impacted districts.

4. Is the distinction between "B" in's (students whose parents live and work in the same district) and "B" outs (students whose parents live in one school district and work in another) significant to your school districts?

For the just completed 1972-73 school year, over 90% of our "B" category students (both military and civilian) worked on federal property which is located in the confines of our school district. I would feel quite positive that this same story would be true in the majority of the highly impacted school districts.

5. Any data on the frequency of moves between districts by "B" student families? (If not, any guesses?)

The "frequency of moves" of the civilian "B" students is undoubtedly quite minimal. However, the majority of our "B" category pupils are military and these very seldom remain in the district for over a 2-3 year period.

6. What would be the minimum time required for your districts to adjust to a loss of impact aid funds?

There is "no way" that this highly impacted school district (Fountain-Fort Carson) can "adjust" to a loss of federal impact funds. This is simply true because of the degree of impaction (over 80%) and the low assessed valuation per student (approximately $2,000). This means that for each $2.00 (per student) that is lost, due to either a proration or loss of federal impact funds, it would take a property tax increase of one mill. Therefore, the only way that this school district can continue to survive is through funding provided by the State of Colorado (through its Public School Foundation Program) and the Federal Government (through Public Laws 815 and 874).

7. For districts receiving impact aid currently, even with five years to adjust, how will you replace any losses in the program?

This question is very similar to "#6". The only responses that can be provided are that the State of Colorado will have to increase its funding level for our district or educational services currently provided will have to be curtailed.

I hope this information will be incorporated into the remaining portions of the testimony I presented on September 14th. Additional information will be supplied upon request.

Sincerely,

Dean Fleischauer

Dr. Dean Fleischauer
Superintendent

DFF/lw

School District Number Twenty
UNITED STATES AIR FORCE ACADEMY, COLORADO
Serving the Black Forest, The U.S. Air Force Academy, the Woodmen Valley
HOWARD DUNNING, Superintendent of Schools
U.S. Air Force Academy, Colorado 80840

September 19, 1973

Questions from Senator Peter H. Dominick to Howard R. Dunning and Dean Fleischauer at a hearing on Public Laws 874 and 815 on September 14, 1973. Hearing conducted by Education Sub-committee of the Committee on Labor and Public Welfare, Senator Claiborne Pell, Chairman, presiding.

Question: Is your situation typical of other high impaction districts and would they agree with your testimony?

Answer: I believe that my situation is very typical of other high impaction districts and they would agree that any sudden withdrawal of PL 874 funds would be disastrous to all of us.

Question: Is the key to your problem really consistency of funding rather than degree of impaction?

Answer: This is certainly a big part of the problem. At budget making time, we never know just what to expect in the way of funding and can make no provisions for replacement of any cut in funds from PL 874 that has not been anticipated.

Question: Why is prorationing such a problem? Are your budgets based on full funding in spite of past experiences with the program?

Answer: Although our budgets are not based on full funding, we do not know what to expect and in most cases, B category students have been funded at less than we expect. With 874 money amounting to 25% of our budget, even a small decrease in the expected amount of funds is impossible to absorb. We continue to operate on a deficit budget and this year will see our budget end with a deficit of $200,000.

Question: Is the distinction between "B" in's (students whose parents live and work in the same district) and "B" outs (students whose parents live in one school district and work in another) significant to your district?

Answer: Not very significant if we know a few years in advance that we are not going to get paid for them. We have approximately 150 B "out" students and could probably absorb them.

Question: Any data on the frequency of moves between districts by "B" student families?

Answer: Perhaps 15% of our B students move each year. Many of our B military families retire in our school-community and the fathers work at other occupations.

Question: What would be the minimum time required for your districts to adjust to a loss of impact aid funds?

Answer: District Twenty could not absorb any significant loss of impact aid funds but of course, with a phase-out of B students such as your bill suggests, we could more nearly adjust than we could with the "sudden-death" approach.

Question: For districts receiving impact aid currently, even with five years to adjust, how will you replace any losses in the program?

Answer: The State of Colorado has been attempting to provide more financing for schools and we would look to the State for this replacement.

School District No. 8
El Paso County

FOUNTAIN-FT. CARSON PUBLIC SCHOOLS 900 WEST ALABAMA FOUNTAIN, COLO. 80817 PHONE [illegible]

October 17, 1973

The Honorable Claiborne Pell, Chairman
Education Subcommittee
The United State Senate
Washington, D. C. 20510

Dear Senator Pell:

I testified before the Senate Education Subcommittee on behalf of Public Laws 815 and 874 on Friday, September 14th. As Chairman of this very important Subcommittee, I would like to provide some additional information for your consideration (and that of your committee).

This concerns the efforts of some Congressmen to count all P.L. 874 monies as "local revenue". Please note a copy of a letter I submitted to Peter H. Dominick (a member of your Subcommittee) exhibiting the drastic effect that such a provision would have upon a highly impacted school district, such as Fountain-Fort Carson.

Consequently, I certainly request that you add this letter (and the attached letter to Senator Dominick) as part of my testimony to help illustrate "why" P.L. 874 revenue should not count as "local revenue". Thank you.

Sincerely,

Dean Fleischauer
Dr. Dean Fleischauer
Superintendent

DFF/lw

Enclosure

ACCREDITED BY THE NORTH CENTRAL ASSOCIATION OF SECONDARY SCHOOLS AND COLLEGES

BEST COPY AVAILABLE

School District No. 8
El Paso County

[illegible]

September 2[illegible], 1974

The Honorable Peter H. Dominick
The United States Senate
Washington, D. C. 20510

Dear Senator Dominick:

On September 21st, I submitted a letter to you urging you not to support legislation (primarily being supported by senators and representatives from the State of Kansas) which would mean that federal impact districts would have to count Public Law 874 money as money from "local sources" (or to have this money submitted directly to the "state" rather than the individual school district).

I think that I can best illustrate for you why I am urging that you not support this legislation by making a simple study of the Fountain-Fort Carson School District's 1974 General Fund Budget. Please keep in mind that Colorado school budgets are based upon the "calendar year". For 1974, we expect to receive the following revenue:

1974 General Fund Budget
Expected Revenues

Local Sources		
Delinquent Taxes	$ 1,000	
Specific Ownership Taxes	30,000	
Property Taxes	240,000	
Tuition	5,000	
Miscellaneous	5,000	
	$ 2[illegible]1,000	[illegible].99%
State of Colorado Sources		
Vocational Education	$ [illegible]	
State Equalization	2,2[illegible]	
Transportation	3[illegible],000	
NDEA	2,500	
	$ 2,3[illegible]2,759	[illegible] 31%

ACCREDITED BY THE NORTH CENTRAL ASSOCIATION OF SECONDARY SCHOOLS AND COLLEGES

Federal Government Sources		
Mineral Leases	$ 20	
Forest Lands	20	
P.L. 874	885,370	
ESEA	2,500	
	$ 887,910	25.591%
	$ 3,469,660	100.00%

We currently have enrolled 3,622 pupils. During the course of the coming year, we can easily increase by another 750 - 1000 students because of these reasons:

1. 200 housing units on Fort Carson are currently being completed and families are moving into them on a daily basis. Additionally, 300 more units will be placed under construction in December.

2. A 240 unit "mobile home village" was recently completed on the Rock Creek Mesa. Families are beginning to move trailers into this Park at the present time.

3. Additional housing is being completed on the Fountain Mesa and other housing (apartments, trailers, etc.) are also being added to other parts of the City of Fountain. Consequently, the 1974 General Fund Budget of $3,469,660 will be a very "sparse" budget depending upon the number of new students received.

To illustrate for you what a "predicament" we would have been in if the policy supported by the Kansas legislators would now be law, please note the following:

1974 General Fund Budget
Expected Revenues

Local Sources		
Delinquent Taxes	$ 1000	
Specific Ownership Taxes	30,000	
Property Taxes	240,000	
Tuition	5,000	
Miscellaneous	5,000	
P.L. 874	885,370	
	$1,166,370	45.14%

Page Three, September 25, 1973
Senator Dominick

State of Colorado Sources		
Vocational Education	$ [illegible]	
*State Equalization	1,357,880	
Transportation	35,000	
NDEA	2,500	
	$ 1,415,380	54.76%
Federal Government Sources		
Mineral Leases	$ 20	
Forest Lands	20	
ESEA	2,500	
	$ 2,540	.10%
	$ 2,584,290	100.%

*The $885,370 in P.L. 874 funds would be "deducted" from the amount to be received from the State of Colorado. Thus, the overall budget would be "reduced" by $885,370.

This would have meant that our budget for 1974 would have been $2,584,290 rather than the $3,469,660. The immediate expectation would be for this amount to be "made up" from the taxpayers in our local school district. This is an utter IMPOSSIBILITY. We have an assessed valuation of $7,017,760. To make up the $885,370--it would mean that we would have to have an increased mill levy of over 126 mills. Of course you realize that this is not practical or possible.

I cannot help but believe that the new federal impact legislation to be enacted by Congress must provide some "loopholes" depending upon the percentage of aid provided from the state governments. I think that the best means to follow would be that all high impact districts should be "guaranteed" an amount of money which would equal that of the "average" for the state in which it is located. High impact districts almost always spend considerably less than the state average. You can easily determine from the illustration that I have provided above that we would be on a bankruptcy budget if the proposed legislation would be enacted.

I am attempting to be quite emphatic on this matter (mainly because I believe it to be of utmost importance to my school district as well as all other high impact districts). Please feel free to call upon me if you need additional explanation regarding this matter. Thank you.

Sincerely,

Dr. Dean Fleischauer
Superintendent

DFF/lw

Senator Stafford. Mr. Chairman, I have no questions.

Senator Hathaway. Thank you very much.

Mr. Eldred. On behalf of all of us, we thank you for this opportunity to appear before you this morning.

Senator Hathaway. We will now receive for the record a statement from Senator Burdick of North Dakota.

Senator Burdick.

STATEMENT OF HON. QUENTIN N. BURDICK, A U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Senator Burdick. Mr. Chairman, for the State of North Dakota, these hearings are extremely timely. The Office of Education has declared North Dakota ineligible to receive any Federal impact aid this fiscal year, creating a true educational crisis for the State.

Ineligibility is said to result from a conflict between section 5(d)(2) of Public Law 81–874 and a 1973 North Dakota law—known as Senate bill 2026. This measure completely reworked the North Dakota Education Foundation Program. One section provided:

> In determining the amount of payment due school districts for per-pupil aid under this section (providing support to elementary and secondary education in the State), the following shall be subtracted from the amount of such aid: * * * That amount in dollars of the state group rate for Title I of Public Law 81–874, 81st Congress represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 874 payments.

According to the Office of Education, this North Dakota provision runs counter to section 5(d)(2) of Public Law 874, because it has the effect of subtracting from the amount of assistance provided to a local educational agency by a State, a portion of the amount paid that school district under Public Law 874. Section 5(d)(2) then operates to make North Dakota ineligible to receive Public Law 874 payments. I offer for the record a copy of the August 29, 1973, letter to me from Peter Muirhead, Acting U.S. Commissioner of Education, which summarizes the position of the Office of Education on this matter.

Let me be more specific. For the 1973–74 school year, North Dakota has requested a State rate of $181.65 per pupil to be paid districts having students whose parents both live and work on Federal property. The new North Dakota law provides that a portion of the Federal payment will be considered in allocating State funds.

North Dakota has a mandatory 21 mill levy which is included in computing the State rate per pupil. This amounts to about one-fifth of the State rate. The State allocates the proceeds from the 21 mill levy as a part of its State aid program. Thus, the Office of Education dictates that impacted districts receive a Federal payment which includes an amount equal to the 21 mill levy and also receive a State aid allocation from the 21 mill levy. Thus, the aid is received twice—once from the Federal Government and once from the State.

The new North Dakota law specifies that the amount which the school districts get from the 21 mill levy shall be subtracted from the State aid allocation. The State aid allocation to a Federal impact school is reduced by an amount equal to about one-fifth of the Federal impact payment.

An example is the Grand Forks public school district, which is heavily impacted by students whose parents live and work on the Grand Forks Airbase. The district expects about $1,600,000 as a Federal impact payment. However, because the new State aid program eliminates the duplicate payment of some $289,000 to that district, section 5(d)(2) of Public Law 874 will deny the payment of any Federal impact aid to the district.

North Dakota will be denied more than $5 million in impact aid this year. I understand Kansas, and possibly Arizona, have a similar problem.

I am confident that a permanent, comprehensive solution to this problem will be forthcoming from your on-going impact aid reform efforts. However, the situation in North Dakota is extremely pressing, and I ask your urgent consideration of actions that would permit North Dakota to receive its rightful share of impact aid this year.

Just what this step, or steps, should be, I leave to your much greater expertise in school financing. However, recognizing that it will take some time to develop an appropriate solution compatible with an ultimate Federal impact aid policy, I might suggest emergency legislation to suspend—not repeal—section 5(d)(2). Such suspension should be of adequate duration to permit Congress to achieve a solution to the State aid question and for the State legislatures to bring their State aid programs into comformity with the new Federal policy. The Education Subcommittee is in a much better position to judge how long it may take to establish a new Federal position.

Mr. Chairman, I appreciate the opportunity to present this matter to you. I will cooperate fully in your subcommittee's efforts to find a workable approach. I would now like to submit for the record a letter from the Acting Commissioner of Education, Department of Health, Education, and Welfare.

Senator HATHAWAY. It will be included in the record at this point.

[The letter referred to and other material subsequently supplied for the record follows:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

AUG 29 1973

Honorable Quentin N. Burdick
United States Senate
Washington, D.C.

Dear Senator Burdick:

Thank you for your letters of July 30 and August 13 on behalf of H. J. Snortland, Assistant Superintendent, Department of Public Instruction, North Dakota, regarding the newly enacted State aid program which may affect payments to local educational agencies in the State pursuant to Public Law 81-874.

Section 5(d)(2) of Public Law 874 provides as follows:

> "No payments may be made during any fiscal year to any local educational agency in any State which has taken into consideration payments under . . . (P.L. 874) in determining the eligibility of any local educational agency in that State for State aid (as defined by regulation), or the amount of that aid, with respect to free public education during that year or the preceding fiscal year, or which makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under . . . (P.L. 874) than such local educational agency would receive if it were not so eligible." (Section 5(d)(2); 20 U.S.C. 240(d)(2))

The pertinent portion of the recently enacted North Dakota statute (formerly Senate Bill No. 2026) provides:

> "In determining the amount of payment due school districts for per-pupil aid under this section (providing support to elementary and secondary education in the State), the following shall be subtracted from the amount of such aid:
>
> . . . That amount in dollars of the state group rate for Title I of Public Law 81-874, 81st Congress, represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 874 payments."[1]
> (emphasis supplied)

It is our understanding that the above State law would have the effect of subtracting from the amount of assistance provided to a local educational agency by a State, a portion of the amount paid under the provisions of P.L. 874. Thus a school district receiving no P.L. 874 payment would receive the full proceeds from a twenty-one mill equalization levy, while a district receiving a P.L. 874 payment would receive a lesser portion of the equalization levy. Under these circumstances, Section 5(d)(2) of P.L. 874 would permit no payments to be made under that Act to any local educational agency in the State of North Dakota.

Of course, the ultimate responsibility for the interpretation and application of the State provision in question is vested in officers of the State of North Dakota. There may exist, for example, other provisions of State law which could lead State officers to interpret or apply the statute in a manner different from that described above. However, we are not currently aware of any basis for such interpretation or application.

I have been informed that in September 1972, Mr. Snortland, in replying to a routine request from the Office of Education for State aid information, inquired about the effects a certain proposed State statute, Senate Bill No. 2026, might have upon P.L. 874 payments in the State. The Division of School Assistance, which is responsible within the Office of Education for the impact aid program, received copies of the proposed legislation from several local school district superintendents from North Dakota, who also expressed concern about its possible effects.

A preliminary review of the bill indicated that its passage would result in Section 5(d)(2) requiring that no payments be made to local educational agencies in the State. Mr. Snortland, in telephone conversations in September, October and December with Mr. Jack Thomas of the Division of School Assistance, was so informed.

The final review of the proposed legislation, confirming the conclusions of the preliminary review, was completed on March 12. On the same date, Mr. Snortland was informed of this fact in a telephone conversation with Mr. Thomas. Mr. Snortland indicated that the bill had not yet been passed by the legislature. The substance of the oral communication was also repeated in a letter to Mr. Snortland dated March 15.

The current pertinent State law provision was passed and approved by the Governor on March 23, 1973. There appears to be no change in the text of the provision from that reviewed prior to March 12. Consequently, Page 3 - Honorable Quentin N. Burdick

Mr. Snortland has been informed that, if the State legislation is interpreted and implemented in such a way that it has the effects described above, no payments may be made pursuant to P.L. 874 in Fiscal Year 1974 to any local educational agencies in the State of North Dakota.

Since the Senate Bill was merely a proposed statute, which might have been amended or abandoned in the legislative process and since many other problems were pressing upon our limited staff at the time, we were unable to make a final formal determination with regard to the matter as promptly as we would have wished. Apologies have, however, been conveyed to Mr. Snortland for the delay between the date of his inquiry and that of our final response.

In his letter to you of August 3, 1973, Mr. Snortland indicates his belief that the U.S. Office of Education may not understand that "we are not planning to deduct payments from 874 applicants." The Director of the Division of School Assistance, Mr. Gerald Cherry, would be happy to discuss further with Mr. Snortland his understanding of the effects of the bill.

Sincerely,

Peter P. Muirhead
Acting U.S. Commissioner
of Education

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JOHN H. HOLLOMAN III
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

October 24, 1973

The Honorable Claiborne Pell
Chairman
Education Subcommittee
Labor & Public Welfare Committee
United States Senate
Washington, D. C.

Dear Mr. Chairman:

Enclosed is correspondence furnished me by the Superintendent of the Grand Forks Public School District outlining the principles he feels should be followed in amending our impact aid legislation.

Dr. Hill's District is one of the very heavily impacted districts within North Dakota. I believe his experiences might be valuable to your Subcommittee as it grapples with impact aid reform legislation.

With kind regards, I am

Sincerely,

Quentin N. Burdick

QNB:hkg

Enclosure

ALBERT H. QUIE
1st District, Minnesota

COMMITTEE:
EDUCATION AND LABOR

WASHINGTON OFFICE:
2181 Rayburn House Office Building
202 225-2271

Congress of the United States
House of Representatives
Washington, D.C. 20515

COUNTIES:
DAKOTA RICE
DODGE STEELE
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GOODHUE WASHINGTON
HOUSTON WINONA
OLMSTED

ROCHESTER OFFICE:
435 First National Bank Building
507-288-2384

FORT SNELLING OFFICE:
522 Federal Building
612-725-3880

October 15, 1973

Mr. Richard Hill, Superintendent
Grand Forks Public Schools
Grand Forks, North Dakota 58201

Dear Mr. Hill:

Thank you for your letter of October 3 regarding P.L. 81-874. The Subcommittee of the Education and Labor Committee, of which I am a member, has been dealing only with questions related to amending Section 502 of Impact Aid and with the consideration of questions relating to the treatment of Indian children and handicapped children. Earlier action by the full Committee to delete the Impact Aid reforms included in the Subcommittee bill has closed the door on any serious reconsideration of the issue during this session of Congress.

With that as a background, let me say that I do appreciate your thoughtful letter. You have raised many interesting points, several of which I agree with. One of our goals must be to reform Impact Aid so that school districts like yours where there is a clear Federal responsibility are not subject to the uncertainties and dislocations suffered by the entire program because of the failure of the Congress to amend controversial sections. I do believe that Section 502 needs modification.

I also agree that heavily impacted A and military B districts deserve priority. I would also agree that the premise that much of the responsibility for Impact Aid lies not with HEW but with the Department of Defense. That view is also supported by Congressman William Steiger of Wisconsin, who introduced an amendment transferring financial responsibility for D.O.D. connected children to that Department. That amendment was accepted by one vote but was rescinded by a lopsided vote two days later. I supported the Steiger amendment in hopes that it would be a step in solving some of the problems facing us now.

You may be interested to know that under the Impact Aid reforms adopted by the General Education Subcommittee the entitlement for your district would have risen from $1,619,000 to $2,229,000.

Those amendments would have fully funded A children, eliminated non-military B-outs, and imposed a 3 percent absorption factor for B's. The effect of those reforms would have been to aid heavily impacted districts such as yours. I regret that that amendment failed to gain the support of the full Committee.

I hope that the foregoing information has been of some assistance. With kind regards, I remain

Sincerely yours,

ALBERT H. QUIE
Member of Congress

AHQ:cck

cc: The Hon. Carl D. Perkins, Chairman
Education and Labor Committee

The Hon. Mark Andrews
Representative, North Dakota

The Hon. Milton R. Young
Senator, North Dakota

The Hon. Quentin Burdick ✓
Senator, North Dakota

Mr. Winston Register, President
Grand Forks School Board

Colonel Harry Erickson, Commander
Grand Forks Air Force Base

Mr. Gerald Cherry, Director
Division of School Assistance, HEW

Major General Oliver Lewis, Director
Personnel Program, DOD

Dr. Anthony Cardinale, Director
Dependents Education, DOD

cc: Dr. Albert Alford
Assistant Commissioner for Legislation, HEW

Dr. Howard Snortland, Assistant Superintendent
North Dakota Department of Public Instruction

Mr. Richard Triplett, Superintendent of Schools
Bellevue, Nebraska

GRAND FORKS PUBLIC SCHOOLS
GRAND FORKS, NORTH DAKOTA

OFFICE OF THE
SUPERINTENDENT

October 3, 1973

The Honorable Albert H. Quie
Representative for Minnesota
U.S. House of Representatives
U.S. House Building
Washington, D.C.

Dear Congressman Quie:

I am informed that you are a member of a sub group of the House Education and Labor committee and that you are currently considering possible modification in P.L. 81-874.

The need for a consensus within Congress and between Congress and the Executive is very great. As an administrator in a "heavily impacted district" (26% A's, 7% B's) I can attest to - more I can see and feel - the consequences of erratic support.

Every year since 1968, we have experienced one, and sometimes two or three, crises relating to support. We have witnessed teacher "terminations," air base boycotts, angry parents, nervous professionals, negotiated "provisional" contracts, less well served students. In a country which prides itself on business acumen, that's no way to run a business. We understand your problems are complex. So are ours. We reason that if our service is to be regular (a circumstance we assume to be desired), support should be regular.

All we want to know is how much we're going to get, from whom, when. Before we accept the burden of educational cost.

Our School Board recently resolved that unless support could be regularized, it wished to effect a "divorce" - this through an annexation (dissolution) process. But, in my judgment, we really don't want a divorce. We want a responsible partner.

We think both partners benefit from a continuing relationship. For the Air Force - we believe we have provided an educational service of a quality which they have appreciated; we provide that service at lower cost than would be true (than is true) of alternatives; relationships have been generally good between community and base - the schools are part of the reason. For the community - our planning and building assumes an economy of scale which we don't care to lose; the presence of Air Force dependents in our midst gives our student body a cosmopolitan flavor it would otherwise be denied; we have some old fashioned notions about loyalty which sees our service as a duty and as a contribution.

At the same time, our local taxpayers cannot tolerate an unconscionable burden imposed by a malfunctioning or non functioning 874.

Thus I have a plea: please get this support regularized; please make 874 function properly.

I do have some points of view about the legislation:

- 5d2 should be modified to permit states to build equalization programs in the spirit of Serrano vs. Priest, et.al.

- A's and "uniformed" B's should have a priority (the heavily impacted districts have been unfortunate pawns in a larger argument - the original and persuasive reasoning for 874 seems to have been lost or ignored in the resulting crossfire.)

- modify 302(d) to permit direct contracting by the school district with the primary service or agency served; where and when arguments broil over entitlements or allocations, school districts should have the opportunity to cut through the red tape by making an independent arrangement in order to maintain the educational service.

- or, consider two pieces of legislation: one for A's, one for B's, the former to be administered by D.O.D., the latter by H.E.W. Argue about B's while ensuring support for A's.

You can deduce our desire for a problem resolution and a funding regularization in one of many possible forms.

The consequences of continuing failure to achieve resolution and regularization are enormously unhappy to contemplate. The recent history has been mischievous in the extreme.

I am enclosing a statement from Richard Triplett, Superintendent of Schools in Bellevue, Nebraska. His district is similarly circumstanced and similarly distressed.

Sincerely,

Richard Hill
Superintendent of Schools

mh

cc: Honorable Carl D. Perkins, Chairman, Education & Labor
Representative for Kentucky

Honorable Mark Andrews
Representative for North Dakota

Honorable Milton R. Young
Senator for North Dakota

Honorable Quentin Burdick
Senator for North Dakota

Mr. Winston Register
President, Grand Forks School Board

Colonel Harry Erickson
Commander, Grand Forks Air Force Base

Mr. Gerald Cherry, Director
Division of School Assistance, H.E.W.

Major General Oliver Lewis
Director of Personnel Program, D.O.D.

Dr. Anthony Cardinale
Director for Dependents Education, D.O.D.

Dr. Albert Alford
Assistant Commissioner for Legislation, H.E.W.

Mr. Howard Snortland, Assistant Superintendent
North Dakota Department of Public Instruction

Dr. Richard Triplett, Superintendent of Schools
Bellevue, Nebraska

STATEMENT ON IMPACT AID
Richard Triplett, Superintendent of Schools
Bellevue, Nebraska

The major criticism of P. L. 874 has been that impact funds often go to "wealthy" districts which have little real need for them. The authorization legislation currently in effect is written under the assumption that need accompanies impaction; that a federal responsibility exists regardless of financial ability of the school district that is affected. If funds should, in fact, go only to districts which have financial need, that intent should be expressed in the authorization language. This has never been done. This is very difficult to accomplish because of the great variation in state and local support plans for education throughout the United States. A provision that impact funds be distributed on a need basis was incorporated into the Battelle report but was given little consideration by the Congress.

Various other proposals have been made which, it is claimed, would reduce the amount of funds required and/or would divert them to the needy districts. Among them are:

1. Discontinue "b" funding entirely. This would accomplish a reduction in the amount of funds required. However, every study of consequence that has been made of P. L. 874 concludes that many "b" districts are in desperate need of the funds. The half-rate established for "b" pupils is based upon sound economic theory.

2. Prorate funding among less impacted districts. This has been the practice for the past several years with the 100%, 90% and 73% provision. While this has averted disaster for most highly impacted districts, it has no rational from the standpoint of economic theory or equity. It is purely a political compromise.

3. Priority of funding for dependents of those in uniformed services. This was proposed by the administration in the budget message a few years ago. Such action could conceivably reduce to zero the funding for non-military pupils, regardless of the degree of impact or of the financial ability of the district. Some distinction should be made between "b" civilian and "b" military if funds must be reduced.

4. Raising the eligibility provisions. This is a logical approach for reducing the funding requirement but has no relationship to need. There seems to be little logic in establishing the qualifying percentage at three percent. It was, at one time, six percent. The 450 pupil minimum also has little to support it in terms of logic. It could as well be almost any other number. The effect of the 450 pupil minimum has been to qualify many districts with a very low percentage of impaction.

5. Absorption of a specified percentage of pupils (perhaps the national average impaction) before any payment is made for the remainder. This is a logical approach since it can be assumed that payments should be made only for pupils in excess of the average degree of impaction. Again, this has little connection with financial need but it does reduce payments to all districts, with the greater reduction in lightly impacted districts.

6. Phase-out of "b" pupils. Senator Dominick's bill to phase-out "b" pupils over four consecutive years of attendance would provide some protection for "b" military pupils since the military families are a mobile group. It would reduce the funds required, would bear no relation to need and could cause an accounting nightmare. It would force reduction of some part of the "b" military funding.

7. Eliminate payments for b-outs or for b-out civilians. This has little justification in equity or economics. B-outs have the same impact upon a district as the b-ins. There is no relation to need. It would reduce the amount of funds required.

8. Make payments to states rather than districts. This would not affect the amount of funding required. It is based on the assumption that state aid plans treat the districts equitably within a state. This is contrary to established fact as evidenced by court decisions throughout the nation which indicate that state aid plans do discriminate among districts.

9. Allow the states to take P. L. 874 funds into consideration in the various state aid plans. In cases where wholly adequate and fully funded state aid plans exist, this may be equitable provision. Such plans are a distinct minority at the present time. In many states, the federal rate decreases as the amount of state aid increases, so that, in effect, the rate formula takes into consideration the state aid in determining the federal payment. If, for example, Nebraska were to take the federal P. L. 874 payment into account in determining the state aid payment, this would bankrupt our district under the present state aid formula.

In summary:

(1) If, in distributing federal impact funds, financial need should be the prime consideration, then this should be so stated in the authorization language. This would lead to some sort of an equalization formula similar to many state aid plans, a very complex process.

(2) The provisions of the Soldier and Sailors Relief Act and the practice of tax-free base exchanges for military personnel establish without

question that a distinction between military dependents and civilian dependents must be made in the "b" category when funds are reduced below current authorization levels.

(3) If the amount of funding provided annually must be reduced, provision for full funding for dependents of those in the uniformed services should be made, regardless of whether "a" or "b" pupils are involved.

Senator HATHAWAY. I now order printed in the record statements from interested persons and organizations and all pertinent material supplied for inclusion in the record.

[The information referred to follows:]

DR. WILLIAM R. ROY
2D DISTRICT, KANSAS

WASHINGTON OFFICE:
1110 LONGWORTH BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-6601

PAUL E. PENDERGAST
ADMINISTRATIVE ASSISTANT

Congress of the United States
House of Representatives
Washington, D.C. 20515

KANSAS OFFICE:
909 TOPEKA AVENUE
TOPEKA, KANSAS 66612
TELEPHONE: (913) 233-8951

LARRY E. WOLGAST
ADMINISTRATIVE ASSISTANT

September 17, 1973

Dear Chairman Pell:

It has come to my attention that the Senate Subcommittee on Education is in the process of holding hearings on the impact aid program. In your capacity as Chairman of this Subcommittee, I respectfully bring to your attention a very critical problem which has arisen in the state of Kansas relative to the payment of 874, impact aid funds.

Briefly stated, the Kansas Legislature, recognizing its responsibility to improve the financing of the public school system, enacted a new school finance plan in 1973. In sum, the plan determines, to the extent possible, the wealth of each school district, requires that this wealth be utilized, and provides for the distribution of state aid when that wealth is not sufficient to finance an appropriate school budget.

In developing this plan, the legislature found it necessary to deduct certain items of wealth of particular school districts, including 874 funds, in determining the amount of state aid to be granted each individual school district. However, there is a question raised as to whether or not this provision in the Kansas plan is in compliance with 20 USC 240, which in effect states that no 874 monies will be given by the federal government to a school district in a state, should that state consider 874 funds in determining how much money each school district will receive. Late last week, the U.S. Office of Education ruled that Kansas was out of compliance with the existing law, and would, therefore, receive no federal impact aid funds.

Mr. Chairman, the situation for Kansas is a critical one, and demands immediate action. The problems at hand can only be resolved with the enactment of legislation. A repeal of Section 5 (d) (2) of P.L. 874 is needed to remove the statutory barrier now prohibiting states like Kansas from equalizing school financing within that state. I urge the adoption of such legislation by the Senate Subcommittee on Education.

To help you more fully understand the Kansas situation, I am enclosing some material for your reading.

Sincerely,

Bill Roy

William R. Roy
Member of Congress

HIGHLAND PARK HIGH SCHOOL
HIGHLAND PARK, NEW JERSEY 08904

DIRECTOR OF GUIDANCE
DR. RICHARD W. EVANS

GUIDANCE DEPARTMENT
TELEPHONE [illegible]

GUIDANCE COUNSELORS
[illegible]

September 18, 1973

The Honorable Claiborne Pell
United States Senate
325 Old Senate Office Building
Washington, D.C. 20510

Dear Senator Pell:

I am writing to you to request your support for funds to support guidance, counseling, and testing throughout the United States. These activities are extremely important to all pupils, their parents, and the general welfare of the country.

In the late fifties and sixties federal legislation and funding helped many counselors assist youth, parents, and the teaching staff in areas such as drop-out prevention, motivation, achievement placement and curriculum improvement. The time has come to again show our committment to all the youth of our country.

I am asking for your support of legislation which will finance these activities and specifically to have such legislation written so that the funds will go directly to guidance and counseling. I am concerned that federal laws be written in specifics; I hope you will not support block funding which permits those individuals in each state with power and influence to divert the national funds as they see fit.

Sincerely,

Richard W Evans
Richard W. Evans

RWE:sj

President: FRANK R. COLEMAN
Nevada State Employment Service
[illegible] Drive
Carson City, Nevada 89701

President-Elect: WAYNE ANDERSON
Testing and Counseling Service
University of Missouri
Columbia, Missouri 65201

Secretary: FLORENCE BUSTAMENTE
Division of Employment Security
Trenton, New Jersey 08625

Treasurer: DeWAYNE PETERSON
Employment Security Bureau
P.O. Box [illegible]
Bismarck, North Dakota 58501

National Employment Counselors Association
1607 NEW HAMPSHIRE AVENUE N.W. WASHINGTON, D.C. 20009 AC 202 483-4633

September 19, 1973

The Honorable Claiborne Pell
United States Senate
325 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Pell:

This letter is in reference to congressional action relating to the Elementary and Secondary Education Act Extension.

The undersigned fully support the positions taken in testimony before the Subcommittee of Education of the Committee on Labor and Public Welfare given by the representative of the American Personnel and Guidance Association and State Supervisors of Guidance.

We represent the thinking and desires of the counseling position in the State of Nevada.

Very truly yours,

Frank R. Brown, Consultant
Guidance and Pupil Personnel Services
Nevada State Department of Education

Frank R. Coleman, Member
Board of Directors
American Personnel and Guidance Association

B'nai B'rith Career and Counseling Services
Formerly B'NAI B'RITH VOCATIONAL SERVICE
1640 RHODE ISLAND AVE., N.W.   WASHINGTON, D.C. 20036   (202) 393-5284

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Sidney Rudolph
Passaic, N.J.
Mrs. A. Louis Segal
Philadelphia, Pa.
Charles Wallach
Cleveland, Ohio
Dr. S. Norman Feingold
National Director
Washington, D.C.

September 21, 1973

The Honorable Claiborne Pell
United States Senate
325 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Pell:

As President-Elect of the American Personnel and Guidance Association, I wish to let you know that I firmly support testimony offered by Dr. Judy H. Lombana on behalf of aid for guidance, counseling and testing contained in Title III, Elementary and Secondary Education Act. Dr. Lombana, Consultant for Middle and Secondary School Guidance, State of Florida Department of Education, representing the American Personnel and Guidance Association, appeared before the Senate Subcommittee of Education of the Committee on Labor and Public Welfare on September 11, 1973.

Through my continual, widespread contact with personnel guidance workers and counselors, the concensus would appear to confirm that the passage in 1958 of the National Defense Education Act, Title V-A, allocating federal funds for guidance services, resulted in great improvement and progress in education and the number of students receiving guidance and counseling services. The positive results from 1958-1968, enumerated by Dr. Lombana, support this contention. However, through the merger in 1970 of the National Defense Act, Title V-A with ESEA III, guidance and counseling services did not fare as well, apparently because of misinterpretation of the 50% floor which resulted in some state-level funding reductions.

In view of my studied judgement, I join my American Personnel and Guidance colleagues in strongly urging federal support via a funding package fashioned along the lines of the National Defense Education Act, Title V-A, with autonomy and specified funds over a long-range period. Along with my professional colleagues, I do not support a consolidation which does not provide for specific funds allocated to guidance and counseling. As a secondary consideration, I do advocate the continued categorical funding as a special section of ESA, Title III, with renewed guidelines spelling out the intent of the law.

B'NAI B'RITH - THE WORLD'S OLDEST AND LARGEST JEWISH SERVICE ORGANIZATION • FOUNDED IN THE UNITED STATES OF AMERICA IN 1843

My life has been spent in the career and counseling field. I feel that I speak with first-hand knowledge of the tremendous impact these services have made upon our youth. Funds for guidance and counseling services should be made available, but not in a manner which could compound existing problems or impair effectiveness.

Your studied consideration and support of the foregoing position will be very much appreciated. If you need further supporting information, please let me know.

Sincerely yours,

Norman Feingold

S. Norman Feingold
President-Elect, APGA

SNF/rf

2323 Twelfth Avenue
Watervliet, New York 12189
September 24, 1973

The Honorable Claiborne Pell
United States Senate
325 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Pell:

I write to you to request that you seriously consider as a high priority item the support of funds to be allocated for guidance, counseling, and testing in the schools throughout the Nation.

These services in the schools are necessary if students are to receive guidance in areas such as communication skills, career development, decision making, interpersonal relations. These services are also essential in the schools to provide students opportunities for growth and for the maximum development of talents for their own satisfaction and for the welfare of the community and the Nation.

To insure that Federal funds will be available specifically for guidance, counseling, and testing I urge you to support legislation calling for categorical aid for guidance, counseling, and testing as opposed to consolidated or block grants which would permit individuals in the States to disseminate funds as they determine.

Sincerely yours,

Patricia A. Opar

(Miss) Patricia A. Opar

DCHS
Del City High School
OFFICE OF COUNSELING AND GUIDANCE

1900 SUNNYLANE ROAD
DEL CITY, OKLAHOMA 73115
PHONE 677-5777

September 24, 1973

The Honorable Claiborne Pell
United States Senate
325 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Pell:

I am a practicing public school counselor writing to you in support of the American Personnel and Guidance Association's position on categorical aid for guidance, counseling and testing as found in ESEA III. My concern is that counseling services in the nation's public schools will decrease when funds are consolidated with those of other more powerful, pressuring groups.

As criticisms are increasingly levelled at the counseling profession by national, state, and local interest groups, the counselor is caught in a very unique and frustrating position. On the one hand he/she is criticized by concerned citizenry and by students themselves for rendering inadequate guidance services. On the other hand he/she is severely criticized by the local administrative staff for his/her reluctance to assume more of the clerical and administrative responsibilities within the school. The one gleam of hope for relief in this dilemma of the public school counselor is an adequate program of accountability based on a needs assessment, programmed activities, and a measurable evaluation of the outcomes. Such a program becomes unrealistic when funds are not specified for counseling services.

I sincerely feel that block or consolidated funding of guidance services would serve to reduce an already inadequate program, and that only through continued and increased categorical aid can the public school counseling service become the helping profession that it was originally intended to be.

Very truly yours,

Evelyn Thompson

Evelyn Thompson
Counselor

ET/gt

STATE OF LOUISIANA
DEPARTMENT OF EDUCATION
LOUIS J. MICHOT
STATE SUPERINTENDENT
P. O. BOX 44064
BATON ROUGE, LOUISIANA 70804

September 26, 1973

The Honorable Claiborne Pell
United States Senator
325 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Pell:

I am writing to call your attention to the existing potential that exists for cuts in budgets, programs and autonomy in guidance services as a result of consolidation efforts. Hopefully, your assistance can be engendered in behalf of firm financial support at a Federal level for guidance services.

Specifically, I wish to align with the members of the American Personnel and Guidance Association and join other State Supervisors of Guidance in expressing a desire for categorical funding with autonomy and specified funds over a long period of time, to be used by each state according to its specific needs and plans. Barring this possibility, the continued categorical funding as a special section of ESEA Title III is advocated. The danger appears to exist that without specific funds allocated to guidance and counseling services, the support services essential to fostering student academic and personal success in an educational setting will be impaired.

Sincerely,

Leon L. Borne, Jr., Ph.D.
Director, Bureau of Student Services

LLBJr:ng

Oklahoma State University

APPLIED BEHAVIORAL STUDIES IN EDUCATION

[illegible]

October 10, 1973

The Honorable Claiborne Pell
United States Senate
325 Old Senate Office Building
Washington, D.C. 20510

Honorable Claiborne Pell:

The purpose of this letter is to support the recommendation of the American Personnel and Guidance Association that the guidance and counseling aspect of Title III, ESEA be allowed to exist and be strengthened. Continued categorical funding as a special section of ESEA, Title III is vital to the counseling and guidance profession.

Counselors are concerned with the improvement of interpersonnel relationships among people in our society and in our social institution. The growth and personal benefits of students who have been served by school counselors is well documented.

It is my professional opinion that any move toward consolidation of funding programs would create a real threat to the counseling and guidance functions presently being offered in our schools. For this reason, I genuinely appreciate your support for continued categorical funding.

Sincerely,

James M. Seals, Ph.D.
Associate Professor
Applied Behavioral Studies
in Education

JMS:rac

Minnesota
School Counselors' Association, Inc.

[illegible]

Central Junior High School
6300 Walker Street
St. Louis Park, Minnesota

October 17, 1973

The Honorable Claiborne Pell
United States Senator
325 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Pell:

I am concerned over the legislation now about to come to a conclusion regarding proposed federal consolidation of funds, including ESEA III (Guidance and Counseling) v.s. categorical aid for Guidance and Counseling. I am opposed to the former, in favor of the latter.

As a counselor for some 20 years, I have seen the positive results of NDEA, Title V-A bringing an infant guidance and counseling movement to a place of prominence on the educational scene.

The merger with ESEA III in 1970 still allowed categorical allocation to Guidance and Counseling.

What a shame it would be for the legislature to set us backward in time through any consolidated package! We must have categorical aid to meet the increasing demands on us in the field to meet the needs of students. I don't have to tell you about the drug scene, career education, drop-out rates, the increasing societal pressures, and the urgency of developing every bit of human potential we can nationally. I hope I don't really need to convince you on the need for categorical aid to Guidance and Counseling.

We who are in contact with thousands of students daily are counting on you to keep our program moving forward.

Hopefully yours,

Lyle L. Williams, counselor
Past president, M.S.C.A.

Sangamon State University

Shepherd Road
Springfield, Illinois 62708
Office of Academic Affairs
217/786-6600

October 18, 1973

Senator Claiborne Pell
United States Senate
Washington, D.C. 20510

Dear Senator Pell:

This letter is seeking your support for the categorical aid for Guidance, Counseling and Testing now found in ESEA Title III. This facet of the legislation needs to be funded and continued in the new legislative package.

Recently we have undertaken a review of guidance activities in schools in several states. These accountability evaluations were extremely positive in support of the job being done. The greatest negative was lack of funds for sufficient personnel and materials. Federal funds can assist in alleviating this need for our children.

Your active support is appreciated.

Sincerely,

Robert H. Zeller, Coordinator
Human Development Counseling Program

RHZ/jaw

National Governors' Conference
OFFICE OF FEDERAL-STATE RELATIONS
1150 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20036

[illegible]
DIRECTOR

TELEPHONE
AREA CODE 202 785-5600

August 2, 1973

The Honorable Claiborne Pell
Chairman
Senate Education Subcommittee
325 Old Senate Office Building
Washington, D.C. 20505

Dear Senator Pell,

I appreciate the opportunity extended to testify before the Senate Education Subcommittee on the Better Schools Act of 1973. Unfortunately, the Nation's Governors have not, at this point, addressed themselves specifically to the proposed legislation; hence, the National Governors' Conference has no official policy regarding the special revenue sharing approach to education. Nevertheless, the Human Resources Committee staff of the Governors' Conference did discuss the Better Schools Act at some length during a session last spring. At that time, the following questions and objections were registered:

1. According to House Education and Labor Committee estimates, the States would receive between $300 to $500 million less under the Better Schools Act as opposed to what they would receive if the categorical programs continued to be funded at their present levels. Under these conditions, the States cannot be expected to support a change in form when it may mean less revenue.

2. The Act seeks to promote greater State responsibility in deciding how federal education funds are to be used, yet the legislation provides no funds for developing and enhancing state administrative capabilities in this area.

3. While the Better Schools Act will require less federal "red tape," how can the States be certain it will not increase bureaucracy at the State level?

4. Although the amount of money spent on each disadvantaged student would increase, would not the concentration requirements in the legislation, plus a change in the definition of what constitutes a poverty family, cause a substantial reduction in the number of students served?

In its deliberations over new authorizing legislation for elementary and secondary education I hope the Committee will take into consideration the accepted policy of the National Governors' Conference with regard to the delivery of federal grants-in-aid in education. Specifically, the National Governors' Conference has adopted the following related policy statements:

Assumption by the Federal Government of far greater responsibility for the financing of education. Such increased federal financial participation should take the form of general grants to the States for educational purposes. Both the legislation and federal regulations for such a program should leave maximum flexibility to States and localities to develop programs to meet their most urgent needs. The basic purpose of such a program would be to help meet the rapidly rising basic cost of education, not to stimulate new supplementary programs. Such programs should not mandate the creation of any new state or local administrative mechanisms.

Adequate advance funding of existing federal programs commensurate with critical educational needs.

Consolidation of existing federal grant-in-aid programs for education into broad functional categories, thereby increasing the ability of States and localities to design programs within broad federal policy guidelines to meet critical needs in individual States and localities, including needs of the handicapped. Such consolidation of grant-in-aid programs should recognize the need for comprehensive planning on the State level and should discourage a fragmented, overlapping program of development. Federal grant-in-aid programs should also encourage new and innovative solutions to the serious problems that face our educational systems.

Maximum administrative simplification of planning, application, allocation, accounting and reporting procedures for all consolidation of grants is not subverted through detailed administrative requirements. Every effort should be made to develop the necessary fiscal and administrative capacity in the States to effectively assume responsibility for consolidated grant-in-aid programs.

Finally, as your Committee will also be dealing with the entire impact aid situation, I hope you will examine closely Section 5(d)(2) of PL-874. This section prohibits States from considering impact aid payments in determining the eligibility of a local school district for State education aid. The Governors believe that this provision in the law is an impediment to State efforts on behalf of providing greater equalization of education expenditures. We urge Congress, therefore, to repeal this Section and thereby permit PL-874 funds to be counted as local school contributions.

I understand that the Education Subcommittee will hear testimony on school finance sometime during September. The Governors' Conference has devoted considerable time to the question of education finance reform and would appreciate an opportunity to appear before your Committee to discuss this important subject. I would be grateful if you would inform us once the hearing dates have been set so I can arrange to have a Governor testify.

Most sincerely,

Charles A. Byrley
Director

CAB/mks

STATEMENT ON IMPACT AID

Richard Triplett, Superintendent of Schools
Bellevue, Nebraska

The major criticism of P. L. 874 has been that impact funds often go to "wealthy" districts which have little real need for them. The authorization legislation currently in effect is written under the assumption that need accompanies impaction; that a federal responsibility exists regardless of financial ability of the school district that is affected. If funds should, in fact, go only to districts which have financial need, that intent should be expressed in the authorization language. This has never been done. This is very difficult to accomplish because of the great variation in state and local support plans for education throughout the United States. A provision that impact funds be distributed on a need basis was incorporated into the Battelle report but was given little consideration by the Congress.

Various other proposals have been made which, it is claimed, would reduce the amount of funds required and/or would divert them to the needy districts. Among them are:

1. *Discontinue "b" funding entirely*. This would accomplish a reduction in the amount of funds required. However, every study of consequence that has been made of P. L. 874 concludes that many "b" districts are in desperate need of the funds. The half-rate established for "b" pupils is based upon sound economic theory.

2. *Prorate funding among less impacted districts*. This has been the practice for the past several years with the 100%, 90% and 73% provision. While this has averted disaster for most highly impacted districts, it has no rational from the standpoint of economic theory or equity. It is purely a political compromise.

3. *Priority of funding for dependents of those in uniformed services*. This was proposed by the administration in the budget message a few years ago. Such action could conceivably reduce to zero the funding for non-military pupils, regardless of the degree of impact or of the financial ability of the district. Some distinction should be made between "b" civilian and "b" military if funds must be reduced.

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In summary:

(1) If, in distributing federal impact funds, financial need should be the prime consideration, then this should be so stated in the authorization language. This would lead to some sort of an equalization formula similar to many state aid plans, a very complex process.

(2) The provisions of the Soldier and Sailors Relief Act and the practice of tax-free base exchanges for military personnel establish without

question that a distinction between military dependents and civilian dependents must be made in the "b" category when funds are reduced below current authorization levels.

(3) If the amount of funding provided annually must be reduced, provision for full funding for dependents of those in the uniformed services should be made, regardless of whether "a" or "b" pupils are involved.

TESTIMONY ON LEGISLATION
FOR PUBLIC LAWS 874 AND 815

Presented by

HOWARD R. DUNNING, SUPERINTENDENT
AIR ACADEMY SCHOOL DISTRICT NUMBER TWENTY
UNITED STATES AIR FORCE ACADEMY
COLORADO

To

THE UNITED STATES SENATE
COMMITTEE ON LABOR AND PUBLIC WELFARE
SUB-COMMITTEE CHAIRMAN
SENATOR CLAIBORNE PELL

September 14, 1973

Air Academy School District #20, United States Air Force Academy, Colorado, was created on July 1, 1957, encompassing all of the United States Air Force Academy as well as an additional 100 square miles of area surrounding the Academy. One of the reasons for the creation of this new School District was to provide for the education of children of military personnel assigned to the Air Force Academy. During the sixteen years of its' existence, an excellent relationship has existed among the patrons of the District, both civilian and military. By combining resources from Public Law 874 and 815 with those from local taxes and state sources, the School District has been able to provide an educational program that has been acceptable to the majority of the patrons.

The School District is presently comprised of 1,260 federally owned housing units on the Air Force Academy and approximately 2200 single family homes outside but near the Air Force Academy. A large portion of the families living off base are either military, retired military, or civilian employees at the Air Force Academy. At present there is no industrial or commercial property within the School District and the prospects for any industry or sizable business coming into the District are rather remote because much effort has been made to keep zoning at the residential and agricultural level. The Air Force Academy complex adequately serves the commercial needs of over half of the School District patrons.

The under appropriating of PL 874 funds that has taken place in recent years (along with the elimination of PL 815 funds) has created financial problems for the District. The fact that the District must build a budget and levy a local tax several months before the definite authorization under PL 874 is established, creates a hardship in a "highly impacted" district. When the PL 874 authorization level decreases without sufficient notice, it creates an impossible situation.

If there is sufficient information available, adjustments to either expenditures or to the local property tax can be attempted in order to balance the budget. Otherwise the only recourse is to operate a deficit budget and of course this situation is compounded each year. Air Academy School District has experienced this situation in recent years and at present is facing a deficit of over $200,000 on a budget of 4 million dollars.

The following table shows that during the 1972-73 school year 58.8% of the student enrollment of the District was federally connected while federal revenue made up 26.0% of the total revenue. This is not necessarily to infer that these two percentages need to be at the same level, but the relationship between the two is changing each year with the difference becoming greater.

Sources of Revenue		% of Total
Federal	$ 958,686.00	26.0%
State	$1,857,585.00	50.5%
Local	$ 859,302.00	23.5%

Category	No. of Students	% of Total
3A (Living on Academy)	1781	38.1%
3B (Uniformed Service)	660	14.1%
3B (Civilian Employees)	308	6.6%
All Other	1930	41.2%

The School District's assessed valuation is 20 million dollars. One mill of tax will raise less than 5 dollars per pupil. The district has been and will continue to be bonded to the legal limit in an attempt to construct the necessary school buildings.

We have attracted and maintained a good teaching staff, however our salaries are dropping significantly below the salaries in the neighboring districts and we are losing some good teachers to other schools.

The annual threat of suddenly eliminating payments for B Category students is a constant concern to School District Twenty. It would certainly be catastrophic to the District's budget, should the Federal Government decide to totally delete these payments all in one year. Any revision in Public Law 874 must provide sufficient advance information regarding any reduction in payments, to allow the various States and School Districts every possible opportunity to search for sources of revenue to replace these funds. In other words, any reduction in funds for B students, must be gradually achieved over a period of time involving several budget years. As expressed by Senator Peter H. Dominick from Colorado, "Many of our highly impacted school districts cannot stand the 'cold-turkey' withdrawal of federal funds for Public Law 874 and continue to operate". Air Academy School District Twenty is one of those districts he was describing.

IMPACTED AREA SCHOOLS

INFORMATION SERVICE

L. ORVILLE CALHOUN
Vice President

[illegible]
Jacksonville, Florida [illegible]

PRESIDENT
[illegible]

VICE PRESIDENT
[illegible]

VICE PRESIDENT
L. Orville Calhoun
Jacksonville, Fla. [illegible]

SECRETARY
[illegible]

TREASURER
[illegible]

[illegible]

AREA I
[illegible]

AREA II
[illegible]

AREA III
[illegible]

AREA IV
[illegible]
San Diego, Ca. [illegible]

REGION CHAIRMEN

REGION I
[illegible]
Portsmouth, New Hampshire [illegible]

REGION II
[illegible]

REGION III
[illegible]
Baltimore, Maryland [illegible]

REGION IV
[illegible]

REGION V
[illegible]

REGION VI
[illegible]

REGION VII
[illegible]

REGION VIII
[illegible]

REGION IX
[illegible]

REGION X
[illegible]
Tacoma, Washington [illegible]

REGION
[illegible]
Washington, D.C. [illegible]

NAME: L. Orville Calhoun
Associate Superintendent

ORGANIZATION: Duval County School Board
Jacksonville, Florida

SUBJECT: P. L. 874 AUTHORIZATION
LEGISLATION

DATE: September 14, 1973

MR. CHAIRMAN AND
DISTINGUISHED MEMBERS OF THE COMMITTEE:

I am L. Orville Calhoun, Associate Superintendent, Duval County Schools, Jacksonville, Florida. I am also Vice-President of the Federal Impact School Group. I appreciate the opportunity to present testimony in support of authorizing legislation to extend the P. L. 874 Impact Education Program for five years.

Members of this Committee, I am sure, will remember that approximately twenty-three years ago (1950), many months were devoted to public hearings in an effort to develop equitable legislation for the Federal Government to discharge its responsibility through payment in lieu of taxes on tax exempt federal property in partially financing a program for the children of its employees both military and civilian. In recent years in considering appropriations for Public Law 874, the Administration has recommended reductions in payments for category "B" pupils and particularly those of civilian employees. It is difficult to understand the Administration's proposals to eliminate civilian employee dependents. These dependents have the same entitlement to educational opportunities as the military.

As you know, the basic reason for federal payments to school districts under Public Law 874 is that federal property is tax exempt and school districts receive no financial support from this property other than through the subject legislation. Past research has

1.0
2.8
2.5
3.2
2.2
3.6
4.0
2.0
1.1
1.8
1.25
1.4
1.6

MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

revealed that local tax revenues from privately-owned property are on an approximate 50-50 basis, between the property where the parents live and where they work, thus the parents of children who both work and live on federally-owned property provide no school revenue. Those parents who work on federal property and live in privately-owned homes do pay taxes on their homes. Thus the rationale for the Federal Government to make per pupil payments on the local contribution rate of comparable school districts, or on the basis of the average national local contribution rate for Section 3(a) pupils and one-half of the local contribution rate for Section 3(b) pupils.

Several studies have been made on the Impact Education Aid Program. *The Battelle Memorial Institute, Final Report on School Systems in Federally Affected Areas*, December 1969, contains the following major conclusions:

> The federal government should continue to provide a program of school assistance in federally affected areas.
>
> The basic features of the current program are sound. The basic mechanism of the current program, namely counting the federally connected students in a district, calculating a per pupil payment for the district and multiplying the number of students by the rate of payment, is sound. It is capable of providing a reasonable approximation of the federal impact upon a district, and is relatively simple to administer by comparison to alternative methods considered.

Members of this Committee, I am sure, are well aware that public education and most other services are experiencing increases in costs, NOT decreases. The school district of Duval County and others in Florida are depending on the Congress for the continuation of impact legislation. This program is essential for the support of public education in hundreds of districts throughout the nation. The criticism of the program seems to be centered around the school districts in the Washington, D. C. area. This opposition, we believe, is unfounded as these school districts are faced with the same financial problems as in other parts of the nation where employment property is federally-owned and tax exempt.

The Duval County District Board of Education strives to maintain the highest educational program possible, however, even under the present level of funding from Public Law 874 and with additional local and state funds made available for

---

1973-74, we are experiencing financial difficulties because of inflationary costs in almost every area in the conduct of the school programs such as the increases in a few of the following items: fuel oil, electric power, paper goods, school lunch milk, pupil transportation, labor costs, etc.

As mentioned previously, since 1950 school impact legislation has been and still is one of our important sources of revenue. You, of course, know that this is a program that is inexpensive to administer, it has been free of red tape and restrictions and its long life with only a few minor changes is an example of the Congress recognizing the federal responsibility in providing financial assistance which is otherwise not available to local school districts.

We urge your favorable consideration for the reenactment of this program for at least a five-year period of time.

I sincerely thank you for the opportunity to present these statements on behalf of the school district of Duval County, Florida and on behalf of the students who will receive the educational benefits therefrom.

SCHOOL DISTRICT OF LANCASTER
225 WEST ORANGE STREET
LANCASTER, PENNSYLVANIA 17604
(717) 393-3871

ADULT ENRICHMENT CENTER
Eugene L. Madeira, Director

February 15, 1973

The Honorable Claiborne Pell
Chairman of the Education Subcommittee
The United States Senate
Washington, D.C.

Dear Mr. Pell:

I was happy to note an item in the newspaper where you had made a statement to the effect that President Nixon's plans to combine funds for major federal education-aid programs into one big revenue-sharing grant has little chance of passage before the start of the new fiscal year.

I am quite concerned about the effect Revenue Sharing will have on Adult Basic Education. At the present time the U.S. Office of Education operates Adult Basic Education through the State Department of Education to the local school districts. This program has been exceedingly effective on the local level. I don't know of any program where more dollars are spent on education at the local level with a minimum of overhead than the Adult Basic Education Act of 1966. In Pennsylvania more the 25,000 people learned to read and write and had opportunities to continue their education up to High School Equivalency on a budget of only $4,000,000.

Here in Lancaster, Revenue Sharing has always been used to reduce taxes and spending by local governments. The conservatives here will not use revenue sharing to continue programs that help the disadvantaged.

I would like to plead with you that every effort be made in the United States Senate to support Adult Basic Education and to keep the Learning Center's operating all over the country that allow adults to attend day or evening and receive instruction from K-12.

In Lancaster where we have a large Puerto Rican population, 10% of the non-English speaking population (750) have learned English and gotten jobs. Another 100 have passed their Driver's examination and been able to drive to better jobs. About 90% of our WIN (Work Incentive Program) students have gotten better jobs, gone on to College and gotten off of welfare. The Talmadge Amendment has practically destroyed the WIN Program forcing them to take deadend jobs that will lead them back to welfare.

Our country still has a lot of disadvantaged people, and Adult Basic Education has done more to help them help themselves than any other program that came out of the 1960's.

I have a set of slides on the Adult Enrichment Center which in 25 minutes tells the story of how a good ABE program works in a middle sized American city. Should you ever need testimony from the local level about the positive results of Adult Basic Education, please let me know.

You know my brother, the Rev. David L. Madeira, who is pastor of the Barrington Baptist Church in Barrington, Rhode Island. I am confident that you are interested in supporting those programs started during the Johnson Administration that have been highly successful.

Sincerely yours,
Eugene L. Madeira
EUGENE L. MADEIRA
Director
Adult Basic Education

P.S. Our learning Center's ware awarded an award as being one of the 10 best in the United States.

LA FACULTAD DEL INSTITUTO BI-LINGUE PARA ADULTOS

Juan Landis, Consejero

Glenn Danner	Dale Moss
Ada Cintron	Gerardo Moylan
Susana Cleaver	Helen Patnunar
Patrick Hazatonen	Doris Rivera

CLASES DE ESTUDIO

Alfabetizacion - La persona que no sabe leer y escribir su propio idioma tendra mas dificultad en aprender y escribir Ingles.

Clases de Ciudadania - Los extranjeros que viven con visa de residencia pueden solicitar ciudadania despues de cinco anos de residencia.

Consejos Educacionales - Adultos no dejan de aprender. Juan Landis le ayudara saber sus capacidades para poder conseguir su diploma del cuarto ano.

Manual de Chofer de Penna.

Mas de 50 personas han estudiado y pasado el examen de leyes de Transito de Pa. Tenemos las preguntas en Ingles y Espanol.

HABLAR INGLES

El metodo de ensenar Ingles tiene 4 pasos - (1) Escuchar Ingles, (2) Hablar Ingles, (3) Leer Ingles y (4) Escribir Ingles. Cada adulto procede segun su propia capacidad o interes.

BIENVENIDO

AL INSTITUTO

BILINGUE

- ALFABETIZACION
- CLASES DE CIUDADANIA
- CONSEJOS EDUCACIONALES
- EDUCACION BI-LINGUE en Espanol - Ingles
- DIPLOMA DEL CUARTO ANO Espanol - Ingles
- Hablar, Escribir, y Leer Espanol
- Hablar, Escribir, y Leer Ingles
- Manual del Chofer (teoria)

Distrito Escolar de Lancaster
CENTRO PARA ADULTOS
Hand Junior High School
SE HABLA ESPANOL

ENGLISH AS A SECOND LANGUAGE–
SPANISH AS A SECOND LANGUAGE
Mr. [illegible], Professor

Our English As a Second Language Program is the heart of the program. People have come [illegible] to our classes [illegible]. Over 1000 non-English speaking people have studied English as a Second Language at our Center. The [illegible] teachers [illegible] in E.S.L. are bilingual and also teach Spanish. The large number of Spanish speaking adults attending the school provides a natural opportunity for students studying Spanish to practice what they have learned.

FREE SPEECH AND HEARING THERAPY
FOR THE DEAF
Mrs. Charlotte H[illegible], Therapist

[illegible] have been provided by the Department of Education for free speech and hearing therapy using the Infra-Code [illegible] electronic [illegible]. Each deaf or hard of hearing adult will work with the therapist on an individual basis. Appointments 9–4 daily.
[illegible] East King Street 291-[illegible] Ext. 19

THE CENTER IS OPEN DAILY from 8 a.m. till 4 p.m. Monday through Friday, and evenings 6 p.m. till 9 p.m. Monday through Thursday.

TRANSPORTATION: Juniata and 7th Ward buses pass the school. Transfer at square.
SPECIAL TRANSPORTATION can be arranged through Information and Referral Services. Call us if you need help.
CHILD CARE: We can help you arrange for child care. If your 3-5 year old is well behaved, you may bring one child with you.

TRY US – WE CARE – WE'LL GO THE EXTRA MILE!

DO YOU
NEED HELP?

- ADULT BASIC EDUCATION
- BILINGUAL EDUCATION
- CITIZENSHIP CLASSES
- COLLEGE READINESS
- COUNSELING
- DRIVERS EDUCATION THEORY
- ENGLISH AS A SECOND LANGUAGE
- FREE SPEECH AND HEARING THERAPY
- HIGH SCHOOL EQUIVALENCY
- JOB READINESS
- SECRETARIAL TRAINING
- SPANISH AS A SECOND LANGUAGE

Adult Enrichment Center

HAND JUNIOR HIGH SCHOOL
Lancaster, Pennsylvania
Phone 291-[illegible]
Ext. 20

TRY
THIS
OPEN
DOOR!

VETERANS
APPROVED

WHAT IS THE FREE SCHOOL ?

The free school provides individual instruction to any adult sixteen years and older who is out of school. The adult talks over his GOALS and AMBITIONS with a counselor and plans a program of study that will enable him to achieve his goal.

The Adult Enrichment Center helps by providing staff and materials which assist each adult in meeting his goal - whether a job, more training, or learning English.

WHAT IS THE ADULT ENRICHMENT CENTER ?

The Adult Enrichment Center is a program of free, continuing education for adults sponsored by the Lancaster School District. It includes a wide variety of programs to meet the needs of all disadvantaged adults by providing BASIC EDUCATION, HIGH SCHOOL EQUIVALENCY, BI-LINGUAL EDUCATION (in English and Spanish), REMEDIAL EDUCATION, CITIZENSHIP EDUCATION, CAREER EDUCATION AND SPEECH AND HEARING THERAPY.

ADULT BASIC EDUCATION

The ability to read and write and do basic arithmetic are essential to anyone who wants to get a better job or go to high school equivalency. The Adult Enrichment has just the right materials to allow you to succeed and get that raise you deserve.

CITIZENSHIP EDUCATION

David Sandham, Teacher
393-3871 Ext. 30

One hundred per cent of those taking the two hour a week citizenship class have successfully passed the examinations given by the Immigration and Naturalization Service of the U. S. Department of Justice.

Foreigners who have resident visas who have lived here five years are eligible to apply for citizenship and take the course. Likewise any foreigners who are married to an American Citizen for three years.

APPROVED BY THE UNITED STATES DEPT. OF JUSTICE

THE STAFF OF THE FREE SCHOOL

Mr. Earl Ridley, Counselor
Mrs. Elizabeth Carter, Teacher of English Grammar

Mrs. Mariah Kregge, Teacher of Mathematics

Mr. David Sandham, Teacher of Social Studies, Reading.

Miss Stella Selby, Registrar, Receptionist and Secretary.

EDUCATIONAL COUNSELING

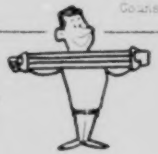
Adults who have been out of school have an advantage when they come back to school. They are more mature. Most adults have also grown in knowledge and reading ability. We have two counselors who can quickly help you know your abilities and show you what you need to study in order to get that high school diploma, or get a job, or go to college.

Earl Ridley
Counselor

John Landis
Bi-lingual counselor

HIGH SCHOOL EQUIVALENCY

Last August 1972 the Board of School Directors voted to award McCaskey High School diplomas to those enrolled in the Adult Center who successfully pass the G.E.D. exam.



COLLEGE READINESS If you are afraid and want to stretch your luck, we have the kind of teachers and materials to get you ready for College.

ADULT SECRETARIAL SCHOOL

322-324 East King St.
Lancaster

The City Office of Manpower has provided 75 adults full day secretarial training with funds from the Model Cities Program.

An advanced class for 47 adults has provided refresher training to allow many to return to work.

A beginning class of 35 adults have learned the fundamentals of typing.

Mrs. Carol Schultz and
Mrs. Elizabeth Carter confer

PUERTO RICAN GRADUATES

Twenty-four Puerto Ricans have taken the G.E.D. in either English or Spanish.

Class of July 1970 Maria Munoz

Class of May 1971 Angel Sierra

Class of September 1971:

Raymond Hernandez
Lorraine Perez

Class of June 1972

Benjamin Perez
Salvador Mendez
[illegible] Rodriguez
Teresa [illegible]

Class of July 1972

Alicia [illegible]
Dolores Morales

Class of September 1972

Manuel [illegible]
Natalie Rodriguez

Class of November 1971

Luz Maldonado

Class of February 1972

[illegible]
[illegible] Galan

Class of March 1972

Jennie Rodriguez
Carmen Mendez
Israel Rodriguez
Hilda Rodriguez

Class of April 1972

[illegible] Rubeo
[illegible]
Carmen Gonzalez
[illegible] Ortiz

Class of May 1972

[illegible] Nieves
[illegible] Perez
Mrs. [illegible] Santiago

Adults from 33 countries have studied at the Adult Center: ARGENTINA, BELGIUM, CANADA, COLOMBIA (GED graduates: Robert Lopez, Luis Rodriguez, Aubet Jaramillo, [illegible] Velasco, Edgar Velasco, Ovelio [illegible], Arcadio Burgos), BRAZIL, (Robert French Fruit) CONGO, CURACAO, DOMINICAN REPUBLIC, EL SALVADOR, FRANCE, WEST GERMANY, GREECE, INDIA, IRAN, ITALY, JAPAN, SOUTH KOREA, MEXICO, NETHERLANDS, OKINAWA, PANAMA, PHILIPPINES, PERU, [illegible] AND PUERTO RICO, SOMALIA, SPAIN, UNION OF SOVIET REPUBLICS, UNITED ARAB REPUBLIC, UNITED KINGDOM, UNITED STATES OF AMERICA, VENEZUELA.

Senator HATHAWAY. The subcommittee will now adjourn, subject to the call of the Chair.

[Thereupon at 11:50 a.m., the hearing was adjourned.]

EDUCATION LEGISLATION, 1973

Elementary and Secondary Education Amendments of 1973 and Better Schools Act of 1973

THURSDAY, OCTOBER 4, 1973

U.S. Senate,
Subcommittee on Education
of the Committee on Labor and Public Welfare,
Washington, D.C.

The subcommittee met, pursuant to notice, in room 6202, Dirksen Senate Office Building, Senator Claiborne Pell [subcommittee chairman] presiding.

Present: Senators Pell and Stafford.

Senator Pell. The Subcommittee on Education will come to order.

Our first witness today on the subject of elementary and secondary school finance is Dr. Joel Berke, director, Educational Finance and Governance Program, Policy Institute of the Syracuse University Research Corp.

STATEMENT OF JOEL BERKE, DIRECTOR, EDUCATIONAL FINANCE AND GOVERNANCE PROGRAM, POLICY INSTITUTE OF THE SYRACUSE UNIVERSITY RESEARCH CORP.

Mr. Berke. Mr. Chairman, I am Dr. Joel Berke from the Syracuse University Research Corp.

I am here this morning on my own behalf and that of my research colleague, Prof. Michael W. Kirst of Stanford University.

We are pleased to have your invitation to come to talk to you this morning about the results of our research and how they relate to the Federal role, particularly in regard to intrastate equalization of school expenditures and financial arrangements.

I want to emphasize that the sponsors of our research, the various foundations, State governments, and the U.S. Office of Education, are in no way responsible for our statements today. We speak as private individuals.

We have a statement which I will leaf through and summarize, but I would like to have it inserted in the record in its entirety with your permission.

Senator Pell. The statement will be inserted in full in the record at the conclusion of your testimony.

Mr. Berke. We may have an appendix or two which the committee may find useful which contain some previous articles of ours.

Senator Pell. They will be inserted in the record.

Mr. Berke. Whether the Federal Government will assist States to eliminate the inequitable, inefficient, and irrational methods by which most of them finance public schools today is, in our view, one of the most critical educational questions facing the Congress.

During the last 2 years, court cases and commission reports have led us to a watershed, a point at which there is far greater public understanding of the problems of State systems of school finance than at any other time in American history.

As I am sure you recall, even in the *Rodriquez* case, in which the Supreme Court said there is no constitutional right to inequitable school finance system, there was very clear condemnation of the way that States are currently supporting their schools in the majority opinions.

In the weeks that followed the *Rodriquez* case, a number of States took on the challenge which the court put to them, which was to reform those inequitable systems. There was marked progress in some of these States toward equal education opportunity and toward an equalization of tax burdens, but most States have not moved. In most States, particularly the large industrial urban States, the impetus to reform is stymied or slowed by interests that benefit from existing laws and by the initial costs of shifting to a fairer system.

So we believe that in this state of affairs, the role that the Federal Government plays can be the critical factor. If Congress designs aid programs to serve as levers for needed change, it can with relatively modest resources shift the entire balance in American school finance. It can aid the many States that seek to move school funding toward more elastic and equitable tax bases and to distribute school funds in great proportion to the educational needs of individual communities and of individual schools.

I might interject, Senator, that the State of Rhode Island may well be one of those States where the commissioner, Dr. Fred G. Burke, who is clearly one of the outstanding commissioners in the Nation, floated or suggested a program of this sort a year or two ago and might be able to adopt it with the stimulus of a Federal program.

Your letter of invitation to testify today asked us to draw upon the research that we have done and indicate how it relates to the Federal role. In response, Professor Kirst and I have drawn on three types of studies we have been doing over the last 5 years.

One set of studies dealt with Federal aid to education and the role of the Federal Government. A second category of research dealt with State studies, studies of State problems in school finance, which we both conducted.

The third type of research that we will touch on is our current work in which we are examining the factors that have led in recent months to the passage of school finance reform laws in several States.

Let me begin with a brief summary of our work on Federal aid to education.

First, we are coauthors of a book, published by D. C. Heath earlier this year, "Federal Aid to Education: Who Benefits? Who Governs?" which summarized a 2-year team research project that examined Federal aid flows to hundreds of school districts in six States, and which described the State and Federal political and administrative practices responsible for determining what kinds of school districts got what amounts of funds from major Federal programs.

Because it is impossible to summarize in a few sentences the conclusions of that extensive study, and because we believe the members of this subcommittee may be interested in it, we are attaching a summary of that work from the Georgetown Law Journal as an appendix to this statement. But a few points relevant to today's topic may be stated rather simply.

Most important, perhaps, was our finding that the relatively small proportion that total Federal aid constitutes—approximately 7 percent of all educational expenditures—acts only as a marginal increment laid on top of a critically flawed State and local base. While title I of ESEA by itself could serve as a model for school finance reform—rifling funds to impoverished districts, beleaguered central cities, and to systems with the highest proportions of low income and low achieving pupils—it constitutes too small a proportion of all educational expenditures to provide more than limited assistance to many of the districts it aids.

Moreover, with regard to school finance, the various other Federal categories work at cross purposes—often helping wealthy districts with low property tax rates more than they assist poor districts with high property tax rates, thus offsetting State attempts at equalization. All this, of course, is not to criticize the architects of the Federal categories. Their categories were never intended to attack the school finance problem directly.

Second, both of us have directed studies of State school finance problems. Dr. Berke was codirector of studies at the Syracuse University Research Corp. for the New York State Commission on the cost, quality, and financing of education, "Financing Equal Educational Opportunity," Berkeley: McCutchan Publishing Corp., 1972, coauthored with A. K. Campbell and R. J. Goettel; of a study of South Carolina school finance; and of Texas school finance as expert witness for the plaintiffs in the *Rodriquez* case.

Dr. Kirst was recently principal consultant for the Florida Governor's Committee on Public Education whose recommendations were incorporated into State law this past spring and constitute what is generally considered the model school finance law in the Nation today. And we have both conducted studies for congressional committees and the U.S. Office of Education which have surveyed broadly the school finance problems in the 50 States of the Nation.

These studies have left us with a sharp sense of the fiscal crisis that has been building for over a decade. We have seen soaring educational costs lead to continual increases in property tax rates and burdens and to record rejections of school tax levies and bond issues.

While most school districts perceive revenue raising as a problem in reality some districts have had to bear a far heavier burden than others. Hardest hit appears to be (1) large northern and midwestern central cities with heavy demands on their tax base for other public services; and in all regions of the country (2) middle income suburbs with little commercial property and (3) impoverished rural areas.

To us, the overriding issue that our studies have revealed is the arbitrary nature of most State/local school finance systems. Characteristically, they result in higher tax rates in poor districts (those least able to support high tax rates), and a distribution of revenues for education that is at best unrelated and often inversely related to the need for educational services. Thus communities with high proportions of children from minority groups or impoverished homes—pupils whose education typically requires high cost resource allocations to compensate for environmental disadvantage—tend to be located in the poorest districts or in those, like large cities with competing demands for other municipal services, which find it exceedingly difficult to devote resources to education.

In short, our studies of State/local school finance problems reveal a crisis in the equity and the efficiency of resource raising and allocation in public education.

The third area of our research which is relevant today is a project currently underway in which we and our colleagues at the Syracuse University Research Corp., Robert J. Goettel, Debra N. Diener and Jay Moskowitz, are investigating the factors which have led to recent enactments of school finance reform laws in six States (Maine, Florida, Utah, Kansas, California, and Minnesota) and to the passage by the legislature but defeat by referendum of such legislation in Oregon.

While the laws in each of these States vary, there are certain principles which they share in whole or in part: (*a*) greater State assumption of school costs and, therefore, a shift away from the local property tax; (*b*) a lessening in the range of expenditure variation among districts; (*c*) greater equalization of tax burdens from district to district; (*d*) the retention of a degree of local choice in setting tax rates; (*e*) upper limits on local property tax rates; (*f*) allocations of educational resources in relation to educational need; (*g*) adjustments of State aid in proportion to cost of living; (*h*) State assumption of some or all construction costs; and (*i*) reform of property tax assessment procedures. The first four provisions were common to all laws; the last five were present in at least one.

The purpose of this research, however, is not focused on the substance of the laws themselves. Rather, the emphasis of the investigation is to examine the events and factors which are associated with successful passage. As a result we have spent the last several months interviewing legislators, journalists, interest group leaders, and staff of Governors, legislatures and education departments in those seven States. While a fascinating variety exists in the course of events in each of the States, some common themes emerge.

First, we have found the role of key legislators—education committee chairmen in some States, Speakers of the House and Senate majority leaders in others—to have been the most critical factor providing leadership in most of the States that passed strong reform laws. Their ability to understand the problems and the possible solutions, and their willingness to assemble the coalitions of support have been a primary ingredient for success in most of our States. Governors played a major role in one State that passed an effective reform law, but leadership was primarily legislative in most.

Second, we have looked intensively at the package of measures which had to be combined to secure passage of school finance reform: property tax relief and reform in some states; a number of related education measures in others; support or repeal of measures only tangentially related in still others. In virtually every case, however, the school finance reform measure did not have enough support to pass in and of itself.

Third, and here we touch on something that should be of some interest in the development of Federal legislation, we found that the influence of factors external to normal educational policymaking in the State played a key role.

The most obvious external factor at the beginning of our investigation was the impact of court cases, *Serrano et al.* generally or particular State cases in Minnesota and Kansas. But there are other external factors operating as well. The role of the education commission of the States, some of the well-known educational finance studies, of foundations which supported research and conferences—all were reported by key legislators, legislative staff, and executive officials as having played a significant role in helping them to understand their problems and to shape solutions.

Fourth, in every State where there was significant reform, the existence of a surplus in the State treasury, frequently as unexpected one, or the use of Federal revenue-sharing moneys was considered critical to passage of the reform laws. "You can only equalize on a rising tide," was the way that the speaker of the House in one State put it.

While under some of the equalization laws some wealthy school districts will receive no State aid whatsoever, and some others face a reduction, such instances are unusual and involved only a tiny percentage of the States districts and pupils. In most cases it has been necessary to "level up," so that while the advantage that wealthy districts have had in the past is lessened, and the gains of poorer districts may be substantial, no district really loses in regard to spending levels, except its relative position in the expenditure range.

Local tax burdens, however, while decreasing overall, have increased in some wealthier school systems. The point is, however, that simple redistribution of expenditure levels which would balance each other out and result in no net addition to State expenditures has nowhere been either sought or accomplished. Instead, the "leveling up" approach has been followed, and there have therefore been costs associated with the accomplishment of greater equalization.

Those costs have been met largely by calling upon surpluses or by the use of Federal general revenue sharing funds to cushion the transition or pay the first year costs of the program. For some of the larger States like New York, Pennsylvania, or Illinois such costs could be substantial, running over a half-billion dollars each.

We have stated these conclusions from our current work with as much confidence as we could, yet we must warn that our project is only halfway through, that we are in month 5 of a 9-month study schedule, and that we have not yet systematically analyzed the seven States on their many differing characteristics.

Yet when we were invited to appear here today, the implications of the study for Federal policy toward intra-State equalization of expenditures seemed so clear that we thought it would be appropriate to have this discussion with you today.

What are those implications? First, we believe that the widespread defects in American school financing are not likely to clear up by themselves. Federal aid categories, with the exception of ESEA title I, do little to rectify the situation. Most proposals, such as those for variants of general aid, special revenue sharing, or the assumption of an overall proportion of school costs (say a quarter or a third) by the Federal Government will not necessarily encourage shool finance reform.

For the State behavior we have observed, even in the few States here significant equalization has recently occurred, suggests that the impact of external forces such as court cases and a national wave of reform agitation was a central factor in bringing change. Judicial intervention in the area has clearly slowed, and if there is to be a national impetus for greater equality of educational opportunity, it will be greatly speeded by requirements attached to a new program of Federal funds: requirements to insure that State finance systems do not continue in the patterns of the past; funds to help pay for the initial costs of leveling up. Some States, of course, will move toward greater equalization on their own; others, however, will need Federal resources and a Federal incentive.

How would such a Federal program work? First of all, we must accommodate a wide range of State political and fiscal traditions and preferences. The enormous and fundamental diversity of the American States results in one specific formula being optimal for one State but utter nonsense for another. This argues for flexible Federal standards.

Under such a plan the Federal Government would monitor expenditure disparities caused by differences in school district wealth rather than differences caused by free local choices of tax rates or differential funding for disadvantaged pupils.

To qualify, a State must reduce wealth-based disparities. Such a plan would permit States to choose any effective reform approach, full State assumption, district power equalizing, increased foundation programs, or a combination of these basic plans. In addition, the Federal Government could reward provisions for recognizing cost of living differentials or for providing weightings for differential educational needs—education of handicapped children, the disadvantaged, et cetera—where effective educational practices require higher than average resources.

This leverage concept starts from a premise that the State is the crucial factor in equalizing school resources, and it assumes that it is the wealth of the entire State that should be the basis for each child's school expenditures. Consequently, the Federal incentive is directed at an increased State role in compensating for the variations in local district wealth and reducing intrastate expenditure disparities. This does not imply that increased State control of local curriculum, teachers, and educational practices will necessarily follow.

The voters and legislators of each State would be free to determine how best to achive equalized educational opportunity given their particular traditions and circumstances. The plan would preserve the diversity of method that is the hallmark of American federalism while it reduces the diversity in educational opportunity that is its shame.

This program to achieve greater equalization of expenditures does not in itself take account of the fact that some pupils need "more than equal" amounts spent on their education. It is critical that a new Federal role in finance reform should not come at the expense of the purposes title I of ESEA and special education categorical programs are intended to serve.

Indeed, title I should be expanded because of its important fiscal benefits (for urban areas and poor rural districts) and for its role in bringing emphasis and concern to education of the disadvantaged. We have found that Federal regulations and guidelines do have impact on State and local practice, but such impact comes through an incremental process of several years when guidelines and regulations are not changed frequently.

Title I, for example, adheres much more closely to Federal intent in 1973 than in 1967. In short, it is important that the focus on equalization does not lead to treating the severe educational problems of the disadvantaged as an afterthought by using only whatever money is left over—after strict equality is attained—to provide extra resources for the disadvantaged.

The money that is left over will be insufficient. Therefore, a desirable provision would provide Federal bonuses for State programs that give added financing for hard to educate pupils * * * the disadvantaged and handicapped. This allocation would, as already noted, have a concomitant benefit of concentrating somewhat more funds in cities and rural areas than State school equalization reform alone would do.

Finally, we should not forget that our prime concern is with the redistribution of educational opportunity among children and not just the redistribution of dollars among districts. Redistribution of money alone does not necessarily lead to a redistribution of educational outcomes. Consequently, we need a substantial Federal commitment to research, to demonstration, and above all to implementation of new educational approaches and techniques.

Earlier in our statement we suggested that the program we are urging today is consistent with the long established tradition of the Federal role in education. We say that because the history of Federal assistance to education has been highlighted by numerous instances when Congress and the executive identified pressing educational needs, national in scope, and have provided the stimulus for State and local responses.

In precisely that manner, Federal aid helped to begin school lunch programs at a time of widespread economic dislocation. Then in the late 1950's in response to substantial criticism of the quality of American education, NDEA was passed to help upgrade curriculum and instruction. The widespread concern of the midsixties for eradicating the lasting effects of poverty brought the largest of Federal categorical programs to date, ESEA, which has stimulated a broad educational concern with a theretofore neglected national problem, the teaching of the poor and educationally disadvantaged.

In the light of that history, a program of aid to encourage States to undertake school finance reform seems to us an appropriate new priority on the Federal educational agenda. States in every part of the Nation are wrestling with the tasks of equalizing educational opportunities and financial responsibilities. The idea that the quality of a child's education should not depend on so arbitrary a factor as the availability of valuable real property or the absence of substantial municipal overburden is a widely appreciated goal of interested citizens, parents, public officials, and educators.

And a variety of existing State formulas are available for the accomplishment of those purposes in varied, yet effective, ways. What has delayed widespread passage of effective equalization laws has been the age-old difficulty of overcoming or reconciling those who benefit from current school finance systems. To do that States need help, help in the way of additional resources to level up and to ease the burden of transition years, help in the way of reasonable Federal requirements to provide a lever to stimulate change in existing State policy.

In proportion to total educational spending, the costs would not be high. In most States the bill for thorough-going equalization with substantial leveling up would probably not exceed 20 percent of current expenditures, and the Federal share would need to bear only a proportion of that. The history of Federal educational finance in the last decade and a half provide ample precedent for a commitment of that magnitude. From 1958 to 1964 Federal expenditures doubled; in 1966 they more than doubled again in a single year. Periodic quantum jumps, then have characterized the recent fiscal history of the Federal role.

It is our recommendation today, based substantially upon the views we have developed in the course of our research on school finance and Federal educational policy, that this committee adopt a program to help States to reform their systems of school finance. The goal of the legislation would be to assure that the quality of education a child receives does not vary simply because of the arbitrary distribution of the local capacity to support education within each State.

We believe that a policy of that kind would be a worthy, appropriate, and widely appreciated component of the Federal role in American school finance.

Thank you, Mr. Chairman and Senator Stafford. I will be happy to take whatever questions you have.

Senator PELL. I think frankly you have given a good statement. It is fairly long. You covered most of the questions we had in mind, at least those that I had in mind.

There is one point though. You mentioned the fact that 7 percent of the educational costs of the Nation are borne by the Federal Government. What do you think would be the cost of the program you are suggesting? You say it would not exceed 20 percent of current expenditures. If we did move in the direction you suggest, that would almost triple Federal expenditures, would it not, which at this point in the budget, with all good will in the world, I do not think we would be able to override that kind of veto.

Mr. BERKE. I am not proposing that the Federal government pick up the entire cost of such a program. I think a variety of approaches would be possible that could come in at figures which could be adjusted to meet the formulas that were devised. I think we are, however, talking about several billions of dollars. I have seen estimates that $4 billion or $5 billion could carry a good share of the program.

Senator PELL. That is not 20 percent of current expenditures.

Mr. BERKE. I assume the States themselves should bear a portion of the burden. I do not believe that the Federal government need pick up the entire cost of leveling up. I believe the States are in a position at the present time to bear much of the cost themselves.

What we need, however, is an incentive, some help in picking up initial costs, and that is where I would see a Federal program fitting in.

Senator PELL. Thank you very much.

CONSIDERATION OF STATE EFFORT

Senator STAFFORD. Thank you, Mr. Chairman. I am sorry I was not able to be here for all the witnesses' testimony. I understand that you have testified with respect to leveling up the effort of the States.

I wonder if under that theory any Federal effort to help the States level up should take into consideration each State's individual financial effort or should be a blanket formula for the country as a whole?

Mr. BERKE. Senator, I have addressed myself today not to the question of allocations to States, but to the intrastate question. In terms of developing a formula which would determine total amount available to each State, I would assume its tax effort would be an appropriate factor and a State like Vermont, which makes a very strong tax effort, should have that effort rewarded. I think most of the formulas I have seen that deal with the State distributions would take that into account, yes sir.

Senator STAFFORD. Thank you, Mr. Chairman.

Senator PELL. Thank you very much, Mr. Berke.

[Statement referred to follows:]

[The prepared statement of Mr. Berke follows:]

A ROLE FOR THE FEDERAL GOVERNMENT IN REFORMING AMERICAN SCHOOL FINANCE

Statement Presented to
The U.S. Senate Committee on Labor and Public Welfare
Subcommittee on Education
Claiborne Pell, Chairman

by

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and

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October 4, 1973

OVERVIEW

Whether the federal government will assist states to eliminate the inequitable, inefficient, and irrational methods by which most of them finance public schools today is one of the most critical educational questions facing the Congress. During the last two years, court cases and commission reports have led us to a watershed, a point at which there is far greater public understanding of the problems of state systems of school finance than at any other time in American history. Even the majority of the U.S. Supreme Court in holding that there is no Constitutional guarantee to an equitable school finance system in the Rodriguez case readily admitted that "the need is apparent for reform in tax systems which may well have relied too long and too heavily on the local property tax. And certainly innovative thinking as to public education, its methods and its funding, is necessary..." Justice Stewart, who cast the deciding vote by concurring with the Powell opinion, was even stronger in his criticism: "the method of financing public schools in Texas, as in almost every other state, has resulted in a system of public education that can fairly be described as chaotic and unjust."

In the weeks that followed the reversal of the Rodriguez case last March, several states shouldered the burden of reforming their school finance systems by passing landmark laws to bring vastly greater fairness to school taxpayers and greater equality of opportunity to school children. But in most other states, the impetus toward reform was slowed or stymied by interests that benefit from existing laws and by the initial costs of shifting to a fairer, more efficient method of raising and distributing revenues for public education. This is particularly true of the largest urban states.

In this state of affairs the role played by the federal government can be the critical factor. If Congress designs aid programs to serve as levers for needed change, it can, with relatively modest resources, shift the balance in American school finance. It can aid the many states that seek to move school funding toward more elastic and equitable tax bases, and to distribute school funds in greater relationship to the differing educational needs of individual communities and schools. Our statement today is designed to suggest the broad outlines of a federal program to accomplish those purposes, a program that provides broad discretion for state and local policymaking in the design of state finance systems but which furnishes adequate incentives for change, an approach that is well within the traditional federal role of providing aid to states to help them deal with educational problems that are national in scope.

LESSONS DRAWN FROM OUR RELEVANT RESEARCH

Since your invitation to us to testify today asked that we share the results of our research with you, we shall briefly describe the studies we have been conducting for nearly five years and the lessons we believe they contain for our topic today.

A. On Federal Aid

First, we are co-authors of a book, published by D. C. Heath earlier this year, Federal Aid to Education: Who Benefits? Who Governs?, which summarized a two year team research project that examined federal aid flows to hundreds of school districts in six states, and which described the state and federal political and administrative practices responsible for determining what kinds of school districts got what amounts of funds from major federal programs. Because it is impossible to summarize in a few sentences the conclusions of that extensive study, and because we believe the members of this subcommittee may be interested in it, we are attaching a summary of that work from the Georgetown Law Journal as an appendix to this statement. But a few points relevant to today's topic may be stated rather simply. Most important, perhaps, was our finding that the relatively small proportion that total federal aid constitutes (approximately 7% of all educational expenditures) acts only as a marginal increment laid on top of a critically flawed state and local base. While Title I of ESEA by itself could serve as a model for school finance reform - - rifling funds to impoverished districts, beleaguered central cities, and to systems with the highest proportions of low income and low achieving pupils - - it constitutes too small a proportion of all educational expenditures to provide more than limited assistance to many of the districts it aids. Moreover, with regard to school finance, the various other federal categories work at cross purposes - - often helping wealthy districts with low property tax rates more than they assist poor districts with high property tax rates, thus offsetting state attempts at equalization. All this, of course, is not to criticize the architects of the federal categories. Their categories were never intended to attack the school finance problem directly.

B. On problems of State Finance Systems

Second, both of us have directed studies of state school finance problems. Dr. Berke was co-director of studies at the Syracuse University

Research Corporation for the New York State Commission on the Cost, Quality and Financing of Education (Financing Equal Educational Opportunity, Berkeley: McCutchan Publishing Corporation, 1972, co-authored with A.K. Campbell and R.J. Goettel); of a study of South Carolina school finance; and of Texas school finance as expert witness for the plaintiffs in the Rodriguez case. Dr. Kirst was recently principal consultant for the Florida Governor's Committee on Public Education whose recommendations were incorporated into state law this past spring and constitute what is generally considered the model school finance law in the nation today. And we have both conducted studies for Congressional committees and the United States Office of Education which have surveyed broadly the school finance problems in the fifty states of the nation. These studies have left us with a sharp sense of the fiscal crisis that has been building for over a decade. We have seen soaring educational costs lead to continual increases in property tax rates and burdens and to record rejections of school tax levies and bond issues.

While most school districts perceive revenue raising as a problem, in reality some districts have had to bear a far heavier burden than others. Hardest hit appear to be (1) large Northern and Midwestern central cities with heavy demands on their tax base for other public services; and in all regions of the country (2) middle income suburbs with little commercial property and (3) impoverished rural areas.

To us, the overriding issue that our studies have revealed is the arbitrary nature of most state/local school finance systems. Characteristically, they result in higher tax rates in poor districts (those least able to support high tax rates), and a distribution of revenues for education that is at best unrelated and often inversely related to the need for educational services. Thus communities with high proportions of children from minority groups or impoverished homes -- pupils whose education typically requires high cost resource allocations to compensate for environmental disadvantage -- tend to be located in the poorest districts or in those, like large cities with competing demands for other municipal services which find it exceedingly difficult to devote resources to education. In short, our studies of state/local school finance problems reveal a crisis in the equity and the efficiency of resource raising and allocation in public education.

C. On Current State Finance Reform Efforts

The third area of our research which is relevant today is a project currently underway in which we and our colleagues at the Syracuse University Research Corporation, Robert J. Goettel and Debra N. Diener, are investigating the factors which have led to recent enactments of school finance reform laws in six states (Maine, Florida, Utah, Kansas, California, and Minnesota) and to the passage by the legislature but defeat by referendum of such legislation in Oregon. While the laws in each of these states vary, there are certain principles which they share in whole or in part: a. greater state assumption of school costs and, therefore, a shift away from the local property tax; b. a lessening in the range of expenditure variation among districts; c. greater equalization of tax burdens from district to district; d. the retention of a degree of local choice in setting tax rates; e. upper limits on local property tax rates; f. allocations of educational resources in relation to educational need; g. adjustments of state aid in proportion to cost of living; h. state assumption of some or all construction costs; and i. reform of property tax assessment procedures. The first four provisions were common to all laws; the last five were present in at least one.

The purpose of this research, however, is not focused on the substance of the laws themselves. Rather, the emphasis of the investigation is to examine the events and factors which are associated with successful passage. As a result we have spent the last several months interviewing legislators, journalists, interest group leaders, and staffs of governors, legislatures and education departments in those seven states. While a fascinating variety exists in the course of events in each of the states, some common themes emerge.

First, we have found the role of key legislators -- education committee chairmen in some states, Speakers of the House and Senate majority leaders in others -- to have been the most critical factor providing leadership. Their ability to understand the problems and the possible solutions, and their willingness to assemble the coalitions of support have been a primary ingredient for success in most of our states. Governors played a major role in two states, but leadership was primarily legislative in most.

Second, we have looked intensively at the package of measures which had to be combined to secure passage of school finance reform: property tax relief and reform in some states, a number of related education measures in others; support or repeal of measures only tangentially related in still others. In virtually every case, however, the school finance reform measure did not have enough support to pass in and of itself.

Third, and here we touch on something that should be of some interest in the development of federal legislation, we found that the influence of factors external to normal educational policy-making in the state played a key role. The most obvious external factor at the beginning of our investigation was the impact of court cases, Serrano et al generally or particular state cases in Minnesota and Kansas. But there are other external factors operating as well. The role of the Education Commission of the States, some of the well-known educational finance studies, of foundations which supported research and conferences -- all were reported by key legislators, legislative staff and executive officials as having played a significant role in helping them to understand their problems and to shape solutions.

Fourth, in every state where there was significant reform, the existence of a surplus in the state treasury, frequently an unexpected one, or the use of federal revenue sharing monies was considered critical to passage of the reform laws. "You can only equalize on a rising tide," was the way that the Speaker of the House in one state put it. While under some of the equalization laws some wealthy school districts will receive no state aid whatsoever, and some others face a reduction, such instances are unusual and involve only a tiny percentage of the states' districts and pupils. In most cases it has been necessary to "level up," so that while the advantage that wealthy districts have had in the past is lessened, and the gains of poorer districts may be substantial, no district really loses anything except its relative position in the expenditure range. Local tax burdens, however, while decreasing overall have increased in some wealthier school systems. The point is, however, that simple redistribution of expenditure levels which would balance each other out and result in no net addition to state expenditures has nowhere been either sought or accomplished. Instead, the "leveling up" approach has been followed, and there have therefore been costs associated with the accomplishment of greater equalization. Those costs have been met largely by calling upon surpluses or by the use of federal general revenue sharing funds to cushion the transition or pay the first year costs of the program. For some of the larger states like New York, Pennsylvania, or Illinois such costs could be substantial, running over a half-billion dollars each.

We have stated these conclusions from our current work with as much confidence as we could, yet we must warn that our project is only halfway through, that we are in month five of a nine month study schedule, and that we have not yet systematically analyzed our data or undertaken rigorous comparisons among the seven states on their many differing characteristics. Yet when we were invited to appear here today, the implications of the study for federal policy toward intrastate equalization of expenditures seemed so clear that we thought it would be appropriate to have this discussion with you today.

IMPLICATIONS FOR FEDERAL POLICY TOWARD INTRASTATE EQUALIZATION

What are those implications? First, we believe that the widespread defects in American school financing are not likely to clear up by themselves. Federal aid categories, with the exception of ESEA I, do little to rectify the situation. Most proposals, such as those for variants of general aid, special revenue sharing, or the assumption of an overall proportion of school costs (say a quarter or a third) by the federal government will not necessarily encourage school finance reform. For the state behavior we have observed, even in the few states where significant equalization has recently occurred, suggests that the impact of external forces such as court cases and a national wave of reform agitation was a central factor in bringing change. Judicial intervention in this area has clearly slowed, and if there is to be a national impetus for greater equality of educational opportunity, it will be greatly speeded by requirements attached to a new program of federal funds: requirements to insure that state finance systems do not continue in the patterns of the past; funds to help pay for the initial costs of leveling up. Some states, of course, will move toward greater equalization on their own; others, however, will need federal resources and a federal incentive.

How would such a federal program work? First, we must accommodate a wide range of state political and fiscal traditions and preferences. The enormous and fundamental diversity of the American states results in one specific formula being optimal for one state but utter nonsense for another. This argues for flexible federal standards. Under such a plan the federal government would monitor expenditure disparities caused by differences in school district wealth rather than differences caused by free local choices of tax rates or differential funding for disadvantaged pupils. To qualify, a state must reduce wealth-based disparities. Such a plan would permit states to choose anv effective reform approach, Full State Assumption, District Power Equalizing, increased foundation programs, or a combination of these basic plans. In addition, the federal government could reward provisions for recognizing cost of living differentials or for providing weightings for differential educational needs (education of handicapped children, the disadvantaged, etc.) where effective educational practices require higher than average resources.

This leverage concept starts from a premise that the state is the crucial actor in equalizing school resources, and it assumes that it is the wealth of the entire state that should be the basis for each child's school expenditures. Consequently, the federal incentive is directed at an increased state role in compensating for the variations in local district wealth and reducing intrastate expenditure disparities. This does not imply that increased state control of local curriculum, teachers, and educational practices will necessarily follow. The voters and legislators of each state would be free to determine how best to achieve equalized educational opportunity given their particular traditions and circumstances. The plan would preserve the diversity of method that is the hallmark of American Federalism while it reduces the diversity in educational opportunity that is its shame.

THE ROLE OF CATEGORICAL PROGRAMS

This program to achieve greater equalization of expenditures does not in itself take account of the fact that some pupils need "more than equal" amounts spent on their education. It is critical that a new federal role in finance reform should not come at the expense of the purposes Title I of ESEA and special education categorical programs are intended to serve. Indeed, Title I should be expanded because of its important fiscal benefits (for urban areas and poor rural districts) and for its role in bringing emphasis and concern to education of the disadvantaged. We have found that federal regulations and guidelines do have impact on state and local practice, but such impact comes through an incremental process of several years when guidelines and regulations are not changed frequently. Title I, for example, adheres much more closely to federal intent in 1973 than in 1967. In short, it is important that the focus on equalization does not lead to treating the severe educational problems of the disadvantaged as an afterthought by using only whatever money is left over -- after strict equality is attained -- to provide extra resources for the disadvantaged. The money that is left over will be insufficient. Therefore, a desirable provision would provide federal bonuses for state programs that give added financing for hard to educate pupils . . . the disadvantaged and handicapped. This allocation would, as already noted, have a concommitant benefit of concentrating somewhat more funds in cities and rural areas than state school equalization reform alone would do.

Finally, we should not forget that our prime concern is with the redistribution of educational opportunity among children and not just the redistribution of dollars among districts. Redistribution of money alone does not necessarily lead to a redistribution of educational outcomes. Consequently, we need a substantial federal commitment to research, to demonstration, and above all to implementation of new educational approaches and techniques.

CONCLUSION

Earlier in our statement we suggested that the program we are urging today is consistent with the long established tradition of the federal role in education. We say that because the history of federal assistance to education has been highlighted by numerous instances when Congress and the Executive identified pressing educational needs, national in scope, and have provided the stimulus for state and local responses. In precisely that manner, federal aid helped to begin school lunch programs at a time of widespread economic dislocation. Then in the late 1950's in response to substantial criticism of the quality of American education, NDEA was passed to help upgrade curriculum and instruction. The widespread concern of the mid-sixties for eradicating the lasting effects of poverty brought the largest of federal categorical programs to date, ESEA, which has stimulated a broad educational concern with a theretofore neglected national problem, the teaching of the poor and educationally disadvantaged.

In the light of that history, a program of aid to encourage states to undertake school finance reform seems to us an appropriate new priority on the federal educational agenda. States in every part of the nation are wrestling with the tasks of equalizing educational opportunities and financial responsibilities. The idea that the quality of a child's education should not depend on so arbitrary a factor as the availability of valuable real property or the absence of substantial municipal overburden is a widely appreciated goal of interested citizens, parents, public officials, and educators. And a variety of existing state formulas are available for the accomplishment of those purposes in varied, yet effective, ways. What has delayed widespread passage of effective equalization laws has been the age-old difficulty of overcoming or reconciling those who benefit from current school finance systems. To do that states need help, help in the way of additional resources to level up and to ease the burden of transition years, help in the way of reasonable federal requirements to provide a lever to stimulate change in existing state policy.

In proportion to total educational spending, the costs would not be high. In most states the bill for thoroughgoing equalization with substantial levelling up would probably not exceed 20% of current expenditures, and the federal share would need to bear only a proportion of that. The history of federal educational finance in the last decade and a half provide ample precedent for a commitment of that magnitude. From 1958 to 1964 federal expenditures doubled; in 1966 they more than doubled again in a single year. Periodic quantum jumps, then, have characterized the recent fiscal history of the federal role.

It is our recommendation today, based substantially upon the views we have developed in the course of our research on school finance and federal educational policy, that this committee adopt a program to help states to reform their systems of school finance. The goal of the legislation would be to assure that the quality of education a child receives does not vary simply because of the arbitrary distribution of the local capacity to support education within each state. We believe that a policy of that kind would be a worthy, appropriate, and widely appreciated component of the federal role in American school finance.

Senator PELL. Our next witness is Will Myers, senior analyst and education finance specialist, Advisory Commission on Intergovernmental Relations.

You have a relatively long statement, which perhaps you would care to digest, and we would insert the full statement in the record at the conclusion of your testimony.

STATEMENT OF WILL S. MYERS, SENIOR ANALYST, ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. MYERS. That would be fine, Mr. Chairman. I would be glad to do that.

My name is Will Myers. I am the senior analyst on the staff of the Advisory Commission on Intergovernmental Relations.

I want to thank you on behalf of the Commission for the opportunity to acquaint your committee with the Commission's views on the intrastate school finance equalization question.

I think it would be helpful to have in the record at this point what the ACIR is. The Advisory Commission on Intergovernmental Relations was established by Congress in 1959 to pay continuing attention to the tensions in our federal system and to make policy recommendations to alleviate them. It consists mainly of policymakers of Federal, State, and local level, 26 members in all, representing both political parties. Commission members include members of the Senate and House, the Cabinet, Governors, State legislators, mayors, elected county officials and three private citizens. The Chairman of our Commission is Mr. Robert E. Merriam of Chicago.

The Advisory Commission over the years has had a continuing interest in school finance mainly because school financing has a major impact on our intergovernmental fiscal system.

In a report entitled "State Aid to Local Governments," the Commission adopted as its first policy recommendation in that report recommendations dealing with financing of public schools.

The Commission's recommendation is as follows:

> In order to create a financial environment more conducive to attainment of equality of educational opportunity and to remove the massive and growing pressures of the school tax on owners of local property, the Commission recommends that each state adopt as a basic objective of its long-range state-local fiscal policy the assumption by the state of substantially all fiscal responsibility for financing local schools with opportunity for financial enrichment at the local level and assurance of retention of appropriate local policymaking authority.

The Commission thus defined the role of the States in the intrastate school finance issue. In response to President Nixon's request, the Commission examined the Federal role, if any, in helping the States discharge their school finance responsibilities.

The complete Commission study has recently been published under the title, "Financing Schools and Property Tax Relief—A State Responsibility." The study resulted in four major findings related to school finance.

NO FISCAL EXHAUSTION

A major Federal educational aid program to help States finance the costs of equalizing per-pupil spending within each State cannot be justified on the grounds that States confront insurmountable fiscal burdens. Our analysis reveals that only a few States would experience fiscal difficulty in bringing per-pupil expenditures to the relatively high levels needed to comply with the "no wealth" principle enunciated first in the *Serrano* case.

The great majority of States have the necessary untapped relative tax potential. New York, Vermont and Wisconsin, however, stand out as the States that would experience greatest fiscal difficulty because of their current heavy use of all State and local taxes.

Prospects for easing pressures for additional school spending have now appeared. School workload will tend to ease in the future as the rapid reduction in the birthrate is reflected in lower school enrollment. The continued expansion of Federal financial assistance, including revenue sharing, to States and localities portends a further easing fiscal pressures on States.

Thus, while there may be other reasons for Federal aid to help States in reducing school spending disparities, such support is difficult to justify on the grounds that the monetary costs imposed by the court decisions or by the conscious public policy constitute an insurmountable fiscal burden for more than a few States.

WIDE STATE POLICY DISCRETION

State legislatures retain wide discretion to devise a school funding system that will both serve the Stae's purposes and pass the test of constitutionality. The court decisions outlawing persistent school finance disparities have not declared the property tax unconstitutional nor even indicated it is an unsuitable tax. Neither have court decisions required equal dollar expenditure per pupil. The courts have recognized that State legislatures have been unwilling to offset fully the variations in local fiscal capacity with equalizing State aid dollars.

Per-pupil spending is still at least twice as great at the 90th pupil percentile level as at the lowest level in half of the States.

As part of the reform of its existing school finance system, a State may confront a major new fiscal demand: That of eliminating wealth as a determinant of local per-pupil spending. Three of the four broad approaches to school finance reform—"beefed-up" foundation program, power equalizing, and the full State funding approach—are likely to entail additional funding to assure that no existing program is cut back.

The fourth—school district reorganization—would entail a constant adjustment of boundaries to preserve equal per pupil valuation but no State financial outlay.

The cost to the States of overcoming a great portion of the impact of local fiscal disparities does not seem large when the full revenue potential of the States is considered. Raising the minimum per pupil expenditure to the 90th percentile level would cost about $6.9 billion and draw down 27.4 percent of the estimated untapped State-local tax capacity—less in some States and more in others, of course.

The actual cost in each State might entail somewhat less money because a State has several options, including school district reorganization, designed expressly to put districts on a more equal local fiscal footing and thereby ease the fiscal pressure on the State.

All but three States—New York, Vermont, and Wisconsin—could raise per pupil spending to the 90th percentile level by using substantially less than their entire untapped relative tax capacity. The same three States would have to use all of their apparent fiscal elbowroom—and more—to level up to the 90th percentile even with the addition of general revenue sharing.

One specific source of State fiscal pain to which the Federal Government can minister with good effects for the States is the welfare area. For example, New York lays out 2.34 percent of its personal income to meet State-local public assistance and medicaid costs. If the National Government assumed all public assistance and medicaid costs, as ACIR has recommended in its report on "State Aid to Local Government," State and local governments in New York would get over $2 billion of fiscal relief.

Pressure on State political leadership to raise more revenue in response to expenditure demands has the positive virtue of forcing States to keep their own fiscal house in order—in the case of education, to reform property tax assessment administration and to make appropriate changes in local government structure to eliminate debilitating fragmentation.

Fiscal pressure probably explains much of the move to improve property tax administration and also the reduction in the number of local school districts from about 109,000 in the 1941–42 school year to about 16,000 in the 1971–72 school year.

If schools get no more than their present share of the budget in most States over the next decade, they can do much to make their existing equalization efforts more effective. Lower rates of growth in school enrollment will free-up school funds for redistribution in an equalizing fashion.

PROBLEM THAT WILL ABATE

The issue of intrastate disparities in school finance stands out as one problem of federalism that will tend to abate rather than worsen as time goes by. Thus the question confronting political leaders at all levels of government is just how long should the reform process take.

Two forces are at work tending to delay State initiative on the school finance disparities issue.

Mindful of the fiscal consequences of most proposed solutions to the disparities issue the public response to a proposed State initiative on school finance is more likely to meet with overt resistance than passive acceptance. The defeat of Governor Cahill's income tax proposal in New Jersey stands out as a case of overt resistance to a proposal calling for a major departure from the status quo. The shift from local school property taxes to a statewide levy for this purpose also carries another set of controversial tax implications.

The most important of these would be the demand that the States equalize property tax assessments both within and among local assessment districts with a consequent shift in burdens among property owners.

A shift toward centralized financing of schools is viewed in many quarters as a threat to local control—control of funds having traditionally served as the instrument for making educational policy. While most proposals for school finance reform have sought to accommodate the concept of local control by permitting local supplementation within limits, New York's Fleischmann Commission recommended against authority for local supplementation on the ground that it would lead ultimately to the re-creation of the school disparities State financing was designed to correct. Others, including ACIR, have contended that a more centralized school financing system should not preclude local control over major aspects of education. The controversy over local control gives the upper hand to the status quo position on school finance because of the lack of evidence to support any other position.

Several forces at work on State governments portend a gradual lessening of interdistrict school finance disparities.

By their past action, States have set a strong precedent for continuously improving the operation of their school finance systems. The improvements have resulted in part from school district consolidation and from States assuming a larger share of State-local costs. States are not likely to stop or reverse this trend.

The education commission of the States keeps a scorecard on the major school finance changes. According to their records, 10 States launched significant new equalization programs in 1973 to reduce the disparities in financial support behind pupils in various parts of a State.

Without any direct Federal intervention, States have made progress in reducing disparities in school spending. The trend to improved State-local finance programs is firmly established, and there is no reason to believe it will be turned around.

The reduction in the number of local school systems accounts for much of the State progress in reducing disparities in local school spending. Both the opportunity to improve educational programs by school consolidation and the urge to get the most out of the educational dollar have led States to exert control over school district boundaries.

State action on boundaries promotes efficiency yet permits flexibility to reflect vital local interests in school district organization.

Taxpayer pressure to slow the rise in aggregate property tax levies and, in some instances, to obtain outright property tax relief has had and will continue to have an equalizing impact on the school finance system.

To the extent that the taxpayer pressure is successful, a larger proportion of State-local school costs will be supported by State nonproperty taxes thereby reducing the significance of interdistrict school finance disparities.

Federal aid to States and localities has been trending upward, revenue sharing being the most recent manifestation. State governments alone reported they plan to put $623 million of their general revenue-sharing payments into the field of education; the money commitment represents more than half of the State's third period entitlement. In addition, one-third of the States anticipated that their use of general revenue-sharing funds would stem the trend toward ever-higher State local taxes.

Recent amendments to the Social Security Act shifted more of the responsibility for welfare financing from the States to the Federal Government. Federal funds free-up State funds for use on other State functions.

Part of the money probably will be channeled into school support to relieve pressure on the local school property tax. At a minimum, the expansion of Federal aid to States and localities will help the States in meeting school costs.

Even though the Supreme Court has overturned the *Rodriquez* decision, *Serrano*-type legislation has so dramatized the existence of intrastate school finance disparities that State political leaders will hereafter be under constant pressure to improve the State's distribution of school funds.

TRADITION OF FEDERAL "HANDS OFF"

Congress has not given explicit recognition to the relative financial ability of local school districts in Federal education aid legislation as a general rule, although it has incorporated provisions to equalize among States in some aid programs. Where a Federal school aid program has affected intrastate school finance disparities, the influence has been at best a secondary concern or an unintended effect.

The Federal Government has heretofore followed a "hands off" policy with respect to the division of fiscal responsibility between a State and its local school districts. This neutrality policy has rested on the belief that the hammering out of the deails of the State-local financial partnership in the school finance area is an "internal" matter that should be resolved by each State.

CONCLUSION

The Commission concluded that the reduction of fiscal disparities among school districts within a State is a State responsibility. In reaching its conclusion, however, the Commission hastened to emphasize several points:

The Commission is not addressing itself to the role the Federal Government should play in supporting public elementary and secondary education but to the narrower question of whether and to what extent Federal aid is necessary to reduce fiscal disparities among school districts within each State.

The Commission believes time is needed to assess the impact of revenue sharing, particularly the extent to which it will enable the States to come to grips with the intrastate school finance question.

The Commission believes the uncertainty surrounding the effectiveness of dollars earmarked for education, as it is presently delivered, illustrates the need for State systems to measure the effectiveness of school spending and to rebuild citizen confidence in public education.

The most significant and positive inference that can be drawn from the Commission's policy recommendation is this—it is not necessary to buck every problem up to Washington for resolution. Strengthened by revenue sharing and with the strong prospect for shifting an increasing share of the welfare expenditure burden to the National Government, the States can and should be held accountable for their traditional property tax and school finance responsibilities.

But revenue sharing and Federal takeover of welfare are not enough. If States are to play a strong role in our Federal system, Congress must resist the constant temptation to solve problems that should be handled at the State level.

Thank you, Senator Stafford.

REVENUE SHARING

Senator **Stafford** (presiding pro tempore). Thank you very much for your testimony, Mr. Myers.

When you refer to revenue sharing in your statement, and you do a number of times, are you talking about general revenue sharing that now exists or are you talking about the concept of special revenue sharing for education?

Mr. **Myers**. I am talking about general revenue sharing as it now exists. Recently the Office of Revenue Sharing in the U.S. Treasury published a study of the planned use reports for the third entitlement period of revenue sharing, and they noted that the States have planned to allocate some $600 million in support of education.

Much of this which will replace local property tax funds, results inproviding more equal access to educational resources on the part of the local school districts and this is what I am referring to, yes sir.

STATE AND LOCAL RESPONSIBILITIES

Senator **Stafford**. One point in your statement, you referred, I think, to a proposal for the States taking over or assuming responsibility for local education, but the local governmental entities to retain authority. Did I understand you correctly on that?

Mr. **Myers**. Yes sir.

Senator **Stafford**. I wonder how you can keep some authority in local government entity if it does not have also some of the responsibility for raising funds to go with that authority? When you spend somebody else's money, you are not quite as careful as you are if you spend your own.

Mr. **Myers**. We have a long tradition of local control in the schools. In the case of education, we also have a long tradition of public surveillance. In this connection, at least, we have the hope that people will try to get the most bang for the buck. That happens to be at stake here. As a parent, I have often heard the general thesis that we never have enough money for education, and I think as a nation we tend to believe that. Education is one of our favorite public expenditure areas. Therefore, we would want to make the most efficient use of that.

We have never tried a system of local control with outside financing, Senator Stafford. So we really do not know, and it is a hope to a large extent. But we think with the strong tradition of local control that presently exists, it will no be sacrificed simply by having the States assume substantially all the responsibility for the financing.

Senator **Stafford**. Thank you, Mr. Myers. I appreciate your being here. I am sure the chairman does, he had to leave but will return shortly.

Mrs. Jean Frohlicher, associate counsel to the subcommittee will present some of Senator Pell's questions to you.

Mrs. **Frohlicher**. Thank you, Senator.

You suggest that if the Federal Government assumes all the cost of something like welfare, this will free up State money to equalize educational expenses. How are you guaranteed that they will use the money on education rather than on public safety, or other competing social services?

Mr. **Myers.** Well, there is no guarantee other than the fact that the educators along with all other competitors for State expenditures would of course be competing for funds, and education does get a substantial portion of State expenditures at the present time. One can only speculate that they would at least hold their own, and therefore a substantial amount of freed-up funds would go into education. Certainly there is no one-to-one transfer that anyone would contemplate there, but the emphasis already on education in the State budgets would certainly prevail and be a prime consideration for getting some of this money.

Mrs. **Frohlicher.** You said that your study was to determine the Federal role, if any, in education. The bulk of your statement goes to the fact that it really is a State responsibility. What does ACIR see as a Federal role? Is there a Federal role?

Mr. **Myers.** Yes. I tried to emphasize the fact that in this particular instance we were looking into the intrastate school finance problems, and questioning whether, if any, there was a Federal role in that connection. The Commission has never stated a general policy in this connection, because it has not studied the overall Federal role in financing elementary and secondary education. Certainly, the Commission would agree that the Federal Government typically carries out its responsibilities when it equalizes resources among the States.

The Commission also has recommended in previous studies that the Federal Government take note and support education for those who are educationally handicapped in one way or another. The Commission recommended that the Federal Government take into account the higher costs of educating pupils in central cities situations and in an earlier 1965 study it recommended that States recognize these differences in costs of educating people. Where the Federal Government recognizes these as in the national interest that is an appropriate Federal function.

I do not think you should read into this statement any aversion by the Commission to have the Federal Government participate in financing of elementary and secondary education. But insofar as the question of intrastate school finance disparities are concerned, that is a problem that the States can and should deal with.

Senator **Stafford.** Thank you very much, Mr. Myers. We appreciate your being here today.

[The prepared statement of Mr. Myers follows:]

ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

Statement by Will S. Myers, Senior Analyst
Advisory Commission on Intergovernmental Relations
Before the Senate Subcommittee on Education
October 4, 1973

ACIR POSITION ON INTRASTATE SCHOOL FINANCE EQUALIZATION

Mr. Chairman:

My name is Will Myers. I am one Senior Analyst on the staff of the Advisory Commission on Intergovernmental Relations. Thank you on behalf of the Commission for the opportunity to acquaint your committee with the Commission's views on the intrastate school finance equalization question. The Commission undertook in February 1972 a study of a proposal calling for a major Federal program of residential property tax relief conditioned on expanded State financing for public education and underpinned by a new or expanded Federal tax such as the value-added tax. In accepting the study assignment from the President, the Commission decided as a first stage of its study to consider "whether and to what extent additional Federal assistance is needed for public education in order to reduce residential property taxes and to meet problems of school finance which may stem from recent court decisions." At that time, February 1972, the disposition of the Rodriguez case was unknown but its possible consequences were much on the mind of policymakers at all governmental levels.

ACIR consists mainly of policymakers at the Federal, State, and local level--26 members in all representing both political parties. Commission members include members of the Senate and the House, the Cabinet, Governors, State legislators, mayors, elected county officials and three provate citizens--one of whom is the Chairman, Robert E. Merriam.

The Advisory Commission on Intergovernmental Relations recognizes that school financing has a major impact on the intergovernmental fiscal system. In its report on State Aid to Local Government, the Commission's first policy recommendation called for State assumption of responsibility for financing public schools in the following terms:

> In order to create a financial environment more conducive to attainment of equality of educational opportunity and to remove the massive and growing pressure of the school tax on owners of local property, the Commission recommends that each State adopt as a basic objective of its long-range State-local fiscal policy the assumption by the State of sub-

stantially all fiscal responsibility for financing local schools with opportunity for financial enrichment at the local level and assurance of retention of appropriate local policymaking authority.

The Commission thus defined the role of the States in the intrastate school finance issue. In response to President Nixon's request, the Commission examined the Federal role, if any, in helping the States discharge their school finance responsibilities. The complete Commission study has recently been published under the title, Financing Schools and Property Tax Relief--A State Responsibility. The study resulted in four major findings related to school finance.

No Fiscal Exhaustion

A major Federal educational aid program to help States finance the costs of equalizing per pupil spending within each State cannot be justified on the grounds that States confront insurmountable fiscal burdens. Our analysis reveals that only a few States would experience fiscal difficulty in bringing per-pupil expenditures to the relatively high levels needed to comply with the "no wealth" principle enunciated first in the Serrano case.

The great majority of States have the necessary untapped relative tax potential. New York, Vermont and Wisconsin, however, stand out as the States that would experience greatest fiscal difficult because of their current heavy use of all State and local taxes.

Prospects for easing pressures for additional school spending have now appeared. School workload will tend to ease in the future as the rapid reduction in the birthrate is reflected in lower school enrollment. The continued expansion of Federal financial assistance, including revenue sharing, to States and localities portends a further easing of fiscal pressures on States.

Thus, while there may be other reasons for Federal aid to help States in reducing school spending disparities, such support is difficult to justify on the grounds that the monetary costs imposed by the court decisions or by conscious public policy constitute an insurmountable fiscal burden for more than a few States.

Wide State Policy Discretion

State legislatures retain wide discretion to devise a school funding system that will both serve the State's purposes and pass the test of constitutionality. The court decisions outlawing persistent school finance disparities have not declared the property tax unconstitutional nor even indicted it as an unsuitable tax. Neither have court decisions required equal dollar expenditures per pupil. The courts have recognized that State legislatures have been unwilling to offset fully the variations in local fiscal capacity with equalizing State aid dollars. Per-pupil spending is still at least twice as great at the 90th pupil percentile level as at the lowest level in half of the States.

As part of the reform of its existing school finance system, a State may confront a major new fiscal demand: that of eliminating wealth as a determinant of local per-pupil spending. Three of the four broad approaches to school finance reform--"beefed-up" foundation program, power equalizing, and the full State funding approach--are likely to entail additional funding to assure that no existing program is cut back. The fourth--school district reorganization--would entail a constant adjustment of boundaries to preserve equal per-pupil valuation but no State financial outlay.

The cost to the States of overcoming a great portion of the impact of local fiscal disparities does not seem large when the full revenue potential of the States is considered. Raising the minimum per-pupil expenditure to the 90th percentile level would cost about $6.9

billion and draw down 27.4 percent of the estimated untapped State-local tax capacity--less in some States and more in others, of course.

The actual cost in each State might entail somewhat less money because a State has several options, including school district reorganization, designed expressly to put districts on a more equal local fiscal footing and thereby ease the fiscal pressure on the State.

All but three States (New York, Vermont, and Wisconsin) could raise per-pupil spending to the 90th percentile level by using substantially less than their entire untapped relative tax capacity. The same three States would have to use all of their apparent fiscal elbow room-and more-to level up to the 90th percentile even with the addition of general revenue sharing.

One specific source of State fiscal pain to which the Federal government can minister with good effects for the States is the welfare area. For example, New York lays out 2.34 percent of its personal income to meet State-local public assistance and medicaid costs. If the National government assumed all public assistance and medicaid costs, as ACIR has recommended in its report on State Aid to Local Government, State and local governments in New York would get over $2 billion of fiscal relief.

Pressure on State political leadership to raise more revenue in response to expenditure demands has the positive virtue of forcing States to keep their own fiscal house in order--in the case of education, to reform property tax assessment administration and to make appropriate changes in local government structure to eliminate debilitating fragmentation. Fiscal pressure probably explains much of the move to improve property tax administration and also the reduction in the number of local school districts from about 109,000 in the 1941-42 school year to about 16,000 in the 1971-72 school year.

If schools get no more than their present share of the budget in most States over the next decade, they can do much to make their existing equalization efforts more effective. Lower rates of growth in school enrollment will free-up school funds for redistribution in an equalizing fashion.

Problem That Will Abate

The issue of intrastate disparities in school finance stands out as one problem of federalism that will tend to abate rather than worsen as time goes by. Thus the question confronting political leaders at all levels of government is just how long should the reform process take.

Two forces are at work tending to delay State initiative on the school finance disparities issue.

Mindful of the fiscal consequences of most proposed solutions to the disparities issue the public response to a proposed State initiative on school finance is more likely to meet with overt resistance than passive acceptance. The defeat of Governor Cahill's income tax proposal in New Jersey stands out as a case of overt resistance to a proposal calling for a major departure from the status quo. The shift from local school property taxes to a statewide levy for this purpose also carries another set of controversial tax implications. The most important of these would be the demand that the States equalize property tax assessments both within and among local assessment districts with a consequent shift in burdens among property owners.

A shift toward centralized financing of schools is viewed in many quarters as a threat to local control--control of funds having traditionally served as the instrument for making educational policy. While most proposals for school finance reform have sought to accommodate the concept of local control by permitting local supplementation within limits, New York's Fleischmann Commission recommended against authority for local supplementation on the ground that it would lead ultimately to the re-creation of the school disparities State financing was designed to correct. Others, including ACIR, have contended that a more centralized school financing system should not preclude local control over major aspects of education. The controversy over local control gives the upper hand to the status quo position on school finance because of the lack of evidence to support any other position.

Several forces at work on State governments portend a gradual lessening of inter-district school finance disparities.

By their past action, States have set a strong precedent for continuously improving the operation of their school finance systems. The improvements have resulted in part from school district consolidation and from States assuming a larger share of State-local costs. States are not likely to stop or reverse this trend.

The Education Commission of the States keeps a score card on the major school finance changes. According to their records, 10 States launched significant new equalization programs in 1973 to reduce the disparities in financial support behind pupils in various parts of a State.

Without any direct Federal intervention, States have made progress in reducing disparities in school spending. The trend to improved State-local finance programs is firmly established, and there is no reason to believe it will be turned around.

The reduction in the number of local school systems accounts for much of the State progress in reducing disparities in local school spending. Both the opportunity to improve educational programs by school consolidation and the urge to get the most out of the educational dollar have led States to exert control over school district boundaries. State action on boundaries promotes efficiency yet permits flexibility to reflect vital local interests in school district organization.

Taxpayer pressure to slow the rise in aggregate property tax levies and, in some instances, to obtain outright property tax relief has had and will continue to have an equalizing impact on the school finance system. To the extent that the taxpayer pressure is successful, a larger proportion of State-local school costs will be supported by State non-property taxes thereby reducing the significance of inter-district school finance disparities.

Federal aid to States and localities has been trending upward, revenue sharing being the most recent manifestation. State governments alone reported they plan to put $623 million of their general revenue sharing payments into the field of education; the money commitment represents more than half of the States' third period entitlement. In addition, one-third of the States anticipated that their use of general revenue sharing funds would stem the trend toward ever-higher State-local taxes.

Recent amendments to the Social Security Act shifted more of the responsibility for welfare financing from the States to the Federal government. Federal funds free-up State funds for use on other State functions. Part of the money probably will be channeled into school support to relieve pressure on the local school property tax. At a minimum, the expansion of Federal aid to States and localities will help the States in meeting school costs.

Even though the Supreme Court has overturned the Rodriguez decision, Serrano-type litigation has so dramatized the existence of intrastate school finance disparities that State political leaders will hereafter be under constant pressure to improve the State's distribution of school funds.

Tradition of Federal "Hands Off"

Congress has not given explicit recognition to the relative financial ability of local school districts in Federal education aid legislation as a general rule, although it has incorporated provisions to equalize among States in some aid programs. Where a Federal school aid program has affected intrastate school finance disparities, the influence has been at best a secondary concern or an unintended effect.

The Federal government has heretofore followed a "hands off" policy with respect to the division of fiscal responsibility between a State and its local school districts. This neutrality policy has rested on the belief that the hammering out of the details of the State-local financial partnership in the school finance area is an "internal" matter that should be resolved by each State.

Conclusion

The Commission concluded that the reduction of fiscal disparities among school districts within a State is a State responsibility. In reaching its conclusion, however, the Commission hastened to emphasize several points:

- The Commission is not addressing itself to the role the Federal government should play in supporting public elementary and secondary education but to the narrower question of whether and to what extent Federal aid is necessary to encourage States to reduce fiscal disparities among school districts within each State.

- The Commission believes time is needed to assess the impact of revenue sharing, particularly the extent to which it will enable the States to come to grips with the intrastate school finance question.
- The Commission believes the uncertainty surrounding the effectiveness of dollars earmarked for education, as it is presently delivered, illustrates the need for State systems to measure the effectiveness of school spending and to rebuild citizen confidence in public education.

The most significant and positive inference that can be drawn from the Commission's policy recommendation is this--it is not necessary to buck every problem up to Washington for resolution. Strengthened by revenue sharing and with the strong prospect for shifting an increasing share of the welfare expenditure burden to the National government, the States can and should be held accountable for their traditional property tax and school fianance responsibilities.

But revenue sharing and Federal takeover of welfare are not enough. If States are to play a strong role in our Federal system, Congress must resist the constant temptation to solve problems that should be handled at the State level.

Senator STAFFORD. The Committee will ask Dr. Jerome T. Murphy, consultant on education, Cambridge, Mass., to please come forward.

Dr. Murphy, we welcome you here on behalf of the Subcommittee on Education. Do you have a prepared statement, or are you going to speak extemporaneously?

STATEMENT OF DR. JEROME T. MURPHY, CONSULTANT ON EDUCATION, CAMBRIDGE, MASS.

Mr. MURPHY. Thank you very much, Senator Stafford. I do not have a prepared statement.

What I would like to do, with your permission, is submit for the record a summary of some research which I want to talk about this morning. It is in the form of an article. I then would like to summarize very briefly my findings and after that would be very happy to answer any questions.

Senator STAFFORD. Your summary will be included in the record and you may proceed any way you wish.

Mr. MURPHY. It is a pleasure to be here this morning to talk about some research that I recently completed on the implementation of Title V of the Elementary and Secondary Education Act which provides funds for the strengthening of State departments of education.

My research focused on that section of the law providing basic grants to State departments of education. The study describes how the Federal money was spent in nine State education agencies—Colorado, Kansas, Kentucky, Massachusetts, Maryland, New York, South Carolina, Tennessee and Texas.

I spent most of my effort, however, at the program's implementation in Massachusetts, New York, and South Carolina. The bulk of my 435 page report talks about these three States.

The study examines the ways in which SEA's have been affected by title V, including a hoped-for increase in staff and budget levels, and improvements in SEA management, services and leadership. But title V was also viewed by its legislative architects in 1965 as a stimulus for basic change, that is, as a vehicle to foster planning, to bring new types of people into State education agencies and to initiate some fundamental changes in these agencies. Therefore, the study also examines whether title V did help promote a rethinking of SEA priorities.

What I found was that State departments of education were strengthened in some ways by title V and not strengthened in other ways. SEA budgets and staffs roughly doubled nationwide between 1965 and 1970. More than half of this budget growth was funded through Federal dollars, with the Federal contribution to SEA administrative expenditures rising from 23 percent in 1965 to 40 percent in 1970. One-fifth of these 1970 Federal dollars came from title V. In my judgment, this growth has allowed State departments of education to provide more services and generally to be more visible than was true in the past.

More specifically as to the impact of title V in those States that I spent the most time in, I found that in New York and Massachusetts title V money was budgeted the first year mainly to meet a series of small pressing problems across the agency, and to support preexisting priorities with those agencies. The projects were largely expansions of ongoing activities, rather than significant changes in roles, procedures, or activities. Once begun, the projects tended to be funded from year to year. In short, rather than promoting basic structural reform, title V became a continuing source of general operational support.

In South Carolina on the other hand, marked changes did take place over the years, largely funded through title V. The reason for this, I believe, derives from the fact that the South Carolina State Department of Education was an agency which was ready to change—funds got there at a time when the State was undergoing political and economic reform. Within this context and climate, title V acted as a facilitator for some rather important changes in that particular State department of education.

As to the other six States that I looked at in less depth, the pattern more closely resembled the one in New York and Massachusetts. In short, title V's impact varied rather significantly from State to State. Why don't I stop at that point, Senator. Thank you for your attention, and I will be happy to answer any questions.

Senator PELL. I regret I was out of the room. Senator Stafford, do you have questions?

Senator STAFFORD. Mr. Chairman, I have listened with great interest to Mr. Murphy's testimony and his impressions of title V in the States that he studied. But I believe I have no particular questions at this point.

Senator PELL. I just want to get one bit of oversimplification in my mind. Does your study find that generally title V has been a failure, would that be correct?

Mr. MURPHY. That point has been made, Senator, in some of the press coverage of the study. It was not my intent, however, to declare that title V was a failure. Let me explain in some detail.

Title V was designed in 1965 to serve several different purposes. I think to talk about whether it is a failure or not, you have to examine these different purposes. One purpose in 1965 was to encourage the chief State school officers to support the entire Elementary and Secondary Education Act. I think on that purpose the program certainly has been a success. The program is very well liked by the chiefs.

Another purpose was to provide more money for State departments of education so they could build up their budgets and build up their staffs. Certainly, on that criterion, title V has been a success. As I described in my statement, State education agencies budgets and staffs doubled between 1965 and 1970.

Another purpose of title V was simply to provide funds for general operational support and for filling in gaps in existing services and management. In my judgment title V also has tended to be a success on this measure.

What I also looked at in the study, however, was whether or not title V really acted as a stimulus for reform, a goal I would argue that some people held in 1965. In my judgment title V was not very successful in meeting that particular criterion. But, as I argue in the full report, the reasons why this did not happen probably have more to do with unrealistic expectations about the way organizations change when given free money than with things you can blame on the State departments of education.

To summarize, my intent in doing the study and reporting it was not to imply that title V had been a failure. I think a strong argument can be made that it is a legitimate function for the Federal Government to provide funds for the general operational support of State departments of education. On the other hand, if the objective of the legislation, or its continuation, is viewed as the promotion of innovation in State departments of education, I am more dubious about title V fulfilling that goal.

Senator PELL. You think the Nation is better off having title V than spending money in other ways? I just want to know. Would you knock it out if you were us or would you leave it in?

Mr. MURPHY. I would knock it out. I would say this, however, if I had additional money that could be put into State departments of education, I would put it into planning rather than basic grants provision.

Senator PELL. Nobody is talking about more money in education these days. It is a question of whether there will be less money.

Mr. MURPHY. That is right. My study does not lead to the conclusion that title V funds ought to be removed from the budget.

RESTRICTIONS ON TITLE V

Senator STAFFORD. Would you put more Federal strings on the title V money to restrict what it might be used for?

Mr. MURPHY. I think it makes sense to continue title V at about the current level. If in fact additional funds did become available, I would put strings on them and have them used for planning, along the lines of part C of title V, which has not yet been implemented.

Senator PELL. What would you think about consolidating Title V with some other State programs?

Mr. MURPHY. I guess I would have to know more about what those other particular programs are. I think that if Title V were consolidated with other programs, and if all the funds were funneled through the State departments of education, then the chief State school officers who believe strongly in the Title V program, would continue to use it for the kind of purposes that they are now using it for.

If you are talking about consolidating part C of Title V, which is that section dealing with planning, I would be opposed to that. In my judgment if Title V, part C was consolidated with other programs, that there would be a tendency for the money to be drained away from planning activities and put in other activities.

Senator PELL. I thank you very much, Dr. Murphy.

[The prepared statement of Mr. Murphy follows:]

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GREASE THE SQUEAKY WHEEL

A Report on the
Implementation of Title V of the
Elementary and Secondary Education Act
of 1965, Grants to Strengthen State
Departments of Education

by

Jerome T. Murphy

SUMMARY*

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*The full report (435 pages) is available at cost ($9.50) from the above address.

SUMMARY

This study explores the impact of unrestricted federal aid on state bureaucracies. The specific program under scrutiny is Title V of the 1965 Elementary and Secondary Education Act, which provides free money to state education agencies (SEA's). Title V is an eight-year-old illustration of one variety of revenue sharing with the states.

The study describes how the federal money was spent in nine SEA's (particularly in Massachusetts, New York and South Carolina). It examines the ways in which these SEA's have been affected by Title V, including a hoped-for growth in staff and budget levels, and improvements in SEA management, services and leadership.

Title V was also viewed by its legislative architects as a stimulus for basic institutional change. They assumed that Title V decisions would grow out of a "rational" planning process and, in turn, SEA's would change in a flexible fashion. The study therefore examines whether Title V promoted a rethinking of SEA priorities and led to a "thorough overhaul" of SEA activities.

Title V's Impact

SEA budgets and staffs roughly doubled nationwide between 1965 and 1970. More than half of this budget growth was funded through federal dollars, with the federal contribution to SEA administrative expenditures rising from 23 percent in 1965 to 40 percent in 1970. One-fifth of these 1970 federal dollars came from Title V. This growth has allowed SEA's to provide more services and generally to be more visible than was true in the past (p. 183).

Title V's impact and SEA strengthening varied significantly from state to state. In New York and Massachusetts, the Title V outcome was mainly marginal adaptations of ongoing activities rather than significant changes in procedures, activities or roles. In South Carolina, marked change took place over the years, largely funded through Title V. Moreover, an examination of the influence of SEA's with their legislatures revealed that Massachusetts was weak in 1965 and remained weak in 1971, that New York was among the most influential SEA's in 1965 but seemed to have grown weaker by 1971, and that South Carolina was weak and appeared to have grown stronger (p. 187).

In none of these states, however, did Title V stimulate a rethinking of priorities or a thorough overhaul of activities. Even in South Carolina, Title V did not promote basic change but rather acted as a *facilitator* for a SEA that was "ready to go". Consequently, Title V funds may have been necessary, but they were not sufficient. They certainly were *not* the change agent that some reformers had hoped (p. 187).

An Explanation

Title V's failure to promote a thorough overhaul of SEA's was explored. The study found that Title V was used mainly to grease squeaky wheels, or to support pre-existing priorities, and was distributed in an *ad hoc* fashion largely on the basis of intra-organizational competition, not planning. Projects were considered not because the SEA's searched everywhere for the best alternatives, but largely because different SEA subunits were already--prior to Title V--predisposed toward certain additional activities and thought they fit within the vague notion of "strengthening" the agency. Heavy emphasis was placed on activities which the state legislatures had not funded, or probably would not fund. In many cases, projects were simply taken "off the shelf" when Title V became available (p. 206).

Once begun, the flow of new funds was mainly used for the continuing subsidy of the projects first established. *The original flexibility of Title V to meet emerging priorities was short-lived (p. 210).*

Basic organizational change (South Carolina) resulted from extraorganizational pressure, not the free money. Also, those external pressures promoting change (e.g., a shift in state politics or a breakdown in traditions) are largely beyond manipulation by the federal government (p. 214).

The study concludes that the conventional explanations of Title V's performance (tardy congressional appropriations, low SEA salaries, inadequate time for preplanning, ineptitude of SEA officials, etc.) do not fully explain why Title V fell short of some hopes. An explanation of the Title V outcomes must take into account the enduring attributes of organizations: traditions, norms and standard operating procedures; subunits with conflicting goals and expansionary tendencies; a preoccupation with short-term pressing problems; search procedures that accept "good enough" solutions rather than optimal ones; and activities that continue from year to year, outliving their usefulness. Indeed, *the underlying reasons why Title V did not promote basic institutional change may have as much to do with the way complex organizations typically behave with free money as with particular institutional or individual shortcomings* (p. 215).

Implications

The study suggests that a major problem in 1965 was the way the reformers thought about complex organizations and how they work. Their assumption that Title V decisions would grow out of a "rational" process and, in turn, the SEA's would change in a flexible fashion, led to unrealistic expectations (p. 215).

This assumption seems particularly relevant today, in view of growing support for various programs of unrestricted federal assistance, such as revenue sharing and general aid to the schools. Behind this approach lies the notion that public institutions are not "working" because of rigid categorical programs, red tape, and the absence of local flexibility. The hope for reform rests on the same basic assumptions as Title V: institutions provided the freedom to plan for their needs, will develop "rational" and flexible strategies for institutional reform. Not only is the assumption the same, but the outcome might be similar as well. General aid will likely result in "more of the same" and not in much additional flexibility, with basic change resulting from local pressure. Hence, just as the hopes of Title V reformers were somewhat dashed by the realities of organizational behavior, so too might be the hopes of the current exponents of institutional reform through general assistance (p. 221).

Notes on Alternative Courses of Action

The last chapter explores various approaches for further strengthening SEA's. They range from conventional options (financial assistance, federal regulations and technical assistance) to approaches that are more controversial (differential treatment and governmental accountability). Various conceptions of planning were also examined. The major conclusions are:

. Financial assistance: Neither general aid nor categorical aid works the way their proponents say they work and, in fact, these seemingly different approaches turn out to be much more alike than some people seem to think. The current federal penchant to make summary judgments among policies on the basis of whether they are "general" or "categorical" seems somewhat myopic (p. 240).

. Governmental accountability: The limited accountability of the states to USOE and to the intended recipients of federal programs, and the closed nature of SEA's to groups other than professional schoolmen suggest the need for extra-agency sources of independent information and the institutionalization of countervailing power. Performance audits, a new use of advisory councils, and independent research/action agencies should be explored (p. 268).

. Planning: If the purpose of SEA comprehensive planning (Part C of Title V) is to significantly affect the allocation of educational resources, then this about-to-be-funded program will probably be a failure. The study suggests that more emphasis be given to another version of planning--"policy analysis" (p. 281).

After examining political and organizational barriers to a variety of federally-initiated change efforts, the study concludes by stressing the extreme difficulty in reforming complex organizations like SEA's. While some approaches seem better than others for making gradual progress, there are no simple ways for the federal government to promote rapid governmental reform in the states (p. 289).

Senator PELL. Now we will recess the subcommittee. We will meet again this coming Tuesday at 10 o'clock.

I thank the witnesses for being here today very much indeed. The meeting is recessed.

(Whereupon at 11 o'clock a.m. the subcommittee was recessed subject to the call of the Chair.)

EDUCATION LEGISLATION, 1973

Elementary and Secondary Education Amendments of 1973

TUESDAY, OCTOBER 9, 1973

U.S. SENATE,
SUBCOMMITTEE ON EDUCATION OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:05 p.m. in room 4232, Dirksen Office Building, Senator Claiborne Pell, subcommittee chairman, presiding.

Present: Senators Pell and Stafford.

Senator PELL. The Subcommittee on Education will come to order. Today's session will be devoted to a discussion of the administration's new initiatives in elementary and secondary education.

About 2 weeks ago I was contacted by administration representatives who requested a meeting to discuss elementary and secondary education. This meeting, attended by Under Secretary Carlucci and Commissioner of Education Ottina and others, was most frank. During that session I was informed that the administration has stepped back from its reliance on the so-called Better Schools Act and is now supporting a program, which while it generally extends the Elementary and Secondary Education Act; contains some consolidation and some concentration of the title I funds; it was also stated that there would be a willingness to increase the budget request for fiscal year 1975 by a total of $540 million over the fiscal year 1974 request, as well as a commitment to support forward fundings.

I complimented the administration on this approach and suggested that we have this hearing to make this offer both public and official. I also suggested that, in preparation for today's hearings, the staffs of the subcommittee and the administration should discuss the alternatives facing us so that we have a full understanding of the various positions, for we realize that it is only with a bill that all agree upon that there will be a solid chance of meaningful legislation on elementary and secondary education enacted this year.

The purpose of today's hearing will be to sketch in the details of the general specifications which I previously stated. For example: How do we concentrate title I funds? If we do utilize some type of concentration mechanism, do we not lose the theory of eligibility on which title I is based? Concerning consolidation, what programs are to be consolidated, and upon what basis are they to be chosen for consolidation?

This becomes particularly difficult from a legislative viewpoint when one realizes that some members of the subcommittee have their own pet programs which they wish to have remain as categorical in nature.

There has been much discussion of the extra $540 million, and, while it sounds like a lot of money, it should be remembered that this figure is $200 million less than the sum which is contained in the fiscal year 1974 appropriations bill which just passed the Senate.

Also, in discussion of forward funding, I would point out that, while the law authorizes forward funding, the administration has simply not requested it: I ask why the change of heart and, indeed, what difference this makes in writing authorizing legislation.

Finally, we must discuss in detail the impact aid program. Nothing the Congress has seen indicates the value and need for discontinuation of this program: no one has demonstrated the benefits gained by doing away with it. I would hope that an inflexible proposal is not adopted causing impact aid to be the rock upon which the bill founders.

All of these matters revolve around one central factor: What is to be gained by adopting or rejecting administration of senatorial alternatives? Will the schools be benefited or will they suffer? What we seek to learn is how the education in the schools will be affected by any proposal, and unless affirmative proof is offered, I would doubt that this subcommittee will adopt the proposal offered.

Mr. Carlucci, please proceed.

STATEMENT OF HON. FRANK CARLUCCI, UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY JOHN OTTINA, COMMISSIONER OF EDUCATION; CHARLES M. COOKE, JR., DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (EDUCATION); AND MOLLIE ORSHANSKY, ECONOMIST, SOCIAL SECURITY ADMINISTRATION

Mr. CARLUCCI. Thank you very much.

I am pleased to be here today to discuss legislation to extend and reform the Elementary and Secondary Education Act.

Six months ago, Secretary Weinberger presented to you the administration's proposal to consolidate and reform many of the Federal categorical aid programs in elementary and secondary education.

Since that time we have been meeting with representatives of the education interest groups to review the legislation. These sessions culminated in a meeting last Thursday with the President.

We have also been in continuing and fruitful negotiations and discussions with members and staff of this subcommittee as well as the House Education and Labor Committee to obtain the basic principles involved in our elementary and secondary education initiative.

I think it is fair to say that we have demonstrated considerable flexibility and a willingness to work closely with the Congress in an effort to reach an accommodation on the legislation.

The President has encouraged us to try to obtain passage of the legislation this session. I believe that it is an attainable goal and I appreciate your willingness, Mr. Chairman, to have administration witnesses reappear before your subcommittee.

This afternoon I would like to discuss with you the basic principles which we feel must form the basis for an acceptable compromise bill:

First, Federal funds for education of the disadvantaged should be concentrated on those most in need of assistance and should be spent primarily on instruction in the basic skills.

Second, more decision-making authority should be shifted away from the Federal Government to State and local officials.

Third, narrow categorical programs should be consolidated.

Fourth, the impact aid program should be reformed.

I would like to discuss each of these principles.

CONCENTRATION THROUGH REFORM OF TITLE I ESEA

One of our principal concerns with the present law is that it does not insure an equitable allocation of aid for compensatory education of the disadvantaged.

We have worked hard to develop a title I formula that will overcome these inequities and insure that funds are focused on those children most in need of compensatory education. We believe that we have developed a formula that will do the job.

To insure as accurate a count of disadvantaged children as available data permits, we propose that eligible children be defined as those from families below the Orshansky or census poverty level, and from families with annual AFDC payments above the $3,700 income level.

A State's title I allocation would be equal to the number of its eligible children multiplied by 35 percent of a State's average per-pupil expenditure. In no event, however, would the average per-pupil expenditure used be less than 85 percent or more than 125 percent of the national average per-pupil expenditure.

States would be required to set aside funds needed for programs for handicapped children, children of migratory workers and neglected and delinquent children. The amount of these payments per child must be equal to, but could not exceed, the highest payment per disadvantaged child in the State.

To determine what share each local educational agency would receive, we would require a State to allocate 70 percent of its title I funds among all eligible districts based on their proportion of disadvantaged children. The remaining 30 percent would be allocated to school districts heavily impacted with the disadvantaged. Specifically, these priority districts would be defined as any district with either 5,000 disadvantaged children, or a percentage in excess of the State average.

We believe this new allocation formula satisfies objections to our original proposal and at the same time maintains the administration's commitment to provide additional funds to those school districts with the highest concentrations of disadvantaged children.

Under this new allocation scheme, all eligible districts would receive some title I funds but priority districts would receive an extra payment, recognizing that districts with heavy enrollments of disadvantaged students face special educational problems.

One feature of S. 1319 which we feel must be retained in compromise legislation is the requirement that at least 75 percent of a district's title I funds be used for instruction in reading and mathematics. Research evidence shows that compensatory education projects with a strong focus on basic skills are able to impact and improve the performance of disadvantaged pupils, that compensatory education which stresses reading and mathematics does work.

Date from the Belmont surveys indicate that between 1967 and 1970, about 38 percent of title I funds went for instruction in basic skills. More recent data shows that in many States the amount of title I funds spent on basic skills exceeds our proposed 75 percent. But there are a significant number of States that have not focused their title I programs and it is our opinion that they should be required by law to do so.

STRENGTHENING STATE AND LOCAL DECISIONMAKING

We should develop legislation which encourages State and local governments to make decisions and to supply those services for which their closeness to the people best qualifies them. In order to do this we should eliminate the requirement for Federal review and approval of many separate, detailed State and local plans. Many of the witnesses who have come before your subcommittee in the past few months have reinforced our contention that the delivery system for the existing maze of programs, involving separate plans, regulations, application forms and evaluations, is so complex that State and local educational agencies find it extremely difficult or impossible to coordinate and concentrate Federal funds effectively.

CONSOLIDATION

Another principle we believe must be embodied in a new education bill is consolidation of categorical education programs. We are encouraged by the action of the House Committee on Education and Labor in consolidating a number of existing categorical programs. In marking up an elementary and secondary education bill, the committee has approved the consolidation of title II, ESEA (school libraries), title III, NDEA (equipment and minor remodeling), and the guidance and counseling section of title III, ESEA, into a library and instructional resources program.

The committee has also agreed to a consolidation of title III, ESEA (Innovation), title V, ESEA (Strengthening State Departments of Education), and title VIII, ESEA (School Health and Nutrition and Dropout Prevention), into an educationl innovation and support program. We feel that still more consolidation of program authorities is both feasible and necessary.

For example, we urge consolidation of parts A–H of the Vocational Education Act and the permanent appropriation under the Smith-Hughes Act into a block grant to States for the broad purposes of these programs. Funds provided under this new authority would be divided among the States in proportion to their schoolage population. The set-aside for the handicapped now in the Vocational Education Act would be retained in its current form.

Such a consolidation in the field of vocational education has been urged in recent weeks by the National Education Association, the Education Commission of the States, the American Association of School Administrators, and the Advisory Commission of Intergovernmental Relations.

REFORM OF IMPACT AID

While the House General Education Subcommittee had recommended substantial reforms in the Impact Aid program, these changes were unfortunately not approved by the full Education and Labor Committee. The reform would have provided for a phaseout of payments for civilian "B" children whose parents work outside the school district and requiring school districts to "absorb" 3 percent of their "B" children before being reimbursed for any additional "B" children. Unfortunately, these reforms were not accepted by the full committee. We would hope that the momentum for reforming this program could be recaptured in the Senate.

The administration's position on reform of Impact Aid is well known. We feel it is essential to limit support under this program to pupils whose parents reside on Federal property and we are prepared to accept a phaseout of funding for category "B" children.

CONCLUSION

In my discussions with representatives of the education groups, I told them that if a bill embodying the principles I have just outlined to you is approved by the Congress, the administration is prepared to support the legislation. If an acceptable compromise is enacted, the Department would seek a 1974 supplemental appropriation for an additional amount of $550 million and forward funding authority for the 1974-75 school year. Every State would then know how much Federal aid it could expect to receive in time to develop more effective plans for its use.

In this connection on forward funding, I recognize that this has always been a possibility, but this is the first time in the field of education that I am aware of, and I could stand corrected by my colleagues, that the administration has indicated a willingness to take the initiative in this area, and I am glad to note from my discussions with Members of Congress that it is generally acceptable to the Congress to do this.

I recognize, Mr. Chairman, that we will have differences of opinion over the significance of the $550 million. Our points of departure, as indicated in your opening statement Mr. Chairman, may be different. We have a different interpretation of what spending is required under the continuing resolution than many, I guess it is fair to say than most, of the Members of Congress. But we believe our interpretation is a proper one and the matter is now before the courts as far as the 1973 spending level is concerned.

As you are aware, Mr. Chairman, we are still on the continuing resolution for fiscal year 1974. So I think it would be fruitless for us to argue over the 1974 budget. I would say it is a very significant departure for the administration to make a funding commitment of this magnitude in advance of the 1975 budget, the first time the President has on his own initiative agreed to make such a commitment.

Mr. Chairman, I neglected to introduce my colleagues here and I apologize for that. The Commissioner of Education is on my right, Dr. John Ottina. On my left is Deputy Assistant Secretary of HEW, Charles Cooke.

I will now be prepared to answer any specific questions you or the members of the subcommittee may have, Mr. Chairman.

Senator PELL. Thank you very much. I appreciate the statement and its general tenor and hope that we can work together to report out a bill that will generally be agreed on. We may well have to agree to disagree on points of it and let the fortunes of the political processes decide the issues.

In connection with title I, page 3, you say: "specifically, these priority districts would be defined as any district wtih either 5,000 disadvantaged children, or a percentage in excess of the State average."

What percent were you thinking of?

Mr. CARLUCCI. It would be the percentage in excess of the State average percentage of disadvantaged children, as defined by—and here is an issue quite frankly, Mr. Chairman, that we have not settled firmly on, as defined by some criteria. There are several options. We could use the same criteria that we have used for the interstate distribution of title I funds or we could allow the States additional flexibility in determining criteria for the intrastate distribution. But whatever criteria we would use, we would have 70 percent go for all the districts who have disadvantaged children and then concentrate 30 percent on top of that.

Senator PELL. Do you think there should be a holdharmless provision in it or not?

Mr. CARLUCCI. Mr. Chairman, we have run various tables, and we find that with the addition of the funds that I mentioned earlier, if we add $550 million for elementary and secondary education in 1975 then we can allocate some $300 million more to title I funding, and this would enable every State to at least reach its fiscal year 1973 spending level.

The concentration aspect may well create problems at the local level. We are still waiting for computer runs on what kind of problems might exactly be created at the local level.

Senator PELL. What you are saying then is that if we follow this formula, no State will get less than it gets now, however, some individual school districts may depending on the movements of population?

Mr. CARLUCCI. That is correct, depending No. 1 on movements of population, and depending on the change in actual distribution as a result of the formula change.

Mr. OTTINA. There is one State, Mr. Chairman, that under the formula we are suggesting might obtain funds slightly below the level, and that is North Carolina.

Mr. CARLUCCI. I apologize; yes, North Carolina would go from $57 million to $54 million. All the rest of the States would either gain or stay level.

Senator PELL. Neither Vermont nor Rhode Island?

Mr. CARLUCCI. No, Rhode Island would go from $5,655,000 to $6,235,000, and Vermont would go from $3,132,000 to $3,273,000.

Senator PELL. I congratulate you on the ingenuity of this formula.

Under the original concept of title I funds, they were to be funds available to local educators to do what they will for the disadvantaged, wouldn't your emphasis on instruction of reading and mathematics perhaps limit this initiative?

Mr. CARLUCCI. We think there ought to be some constraints.

Senator PELL. I must say I agree with you personally on that.

Mr. CARLUCCI. I will ask Dr. Ottina to speak specifically to the point. But if we are going to help the disadvantaged, we surely do not want money going into football uniforms and such other activities, and the studies that we have conducted indicate that there is a very high payoff in reading and math for the disadvantaged students.

Let me ask Dr. Ottina to elaborate on that.

Mr. OTTINA. Mr. Chairman, our thought very much in asking that the schools spend their money this way is that when we talked about educational disadvantage, we are generally talking about performance in the areas of reading literacy and computation. Therefore, we believe that funds for the educationally disadvantaged directed in this area would indeed be supportive of the national purpose.

I would like to call to your attention also, Mr. Chairman, to some studies we have done on a very limited basis. Many States spend in excess of 75 percent of their title I money in language arts, mathematics, and reading. We do have a survey of some 28 States which shows that they spend somewhere between 30 and 40 percent and 89 percent of their funds in this particular area, and we would be pleased to supply that for your information.

Senator PELL. We would appreciate that. We will put these tables in the record, too.

[The following information was substantially supplied for the record:]

Excerpt from:

TITLE I READING AND MATHEMATICS PROGRAMS: A COMPILATION AND SYNTHESIS OF AVAILABLE ACHIEVEMENT, EXPENDITURE, AND MODEL PROJECT INFORMATION

Submitted by the Planar Corporation

STATE EXPENDITURE PATTERNS

To determine the amounts and proportions of Title I money spent on reading and mathematics, we searched the Title I annual reports and then telephoned those SEAs which did not present these data in their annual reports. In addition, we examined the expenditure data reported in the 1970 CPIR (Belmont) Survey.

Table 29 contains the expenditure data from twenty-eight of the fifty SEAs surveyed. The figures presented in Table 29 are all for FY 72, with the exception of Minnesota which reported FY 73 information. In all instances, the percentages reported are the result of dividing the reading and/or mathematics expenditures by the local educational agency portion of the Part A allocation or expenditure. Thus, we did not include migrant, N & D, etc., in the Part A figures. Similarly, the reading and mathematics expenditures include only LEA figures. Our assumption in limiting the report to only SEA and LEA basic skill projects was that the other components, N & D, Handicapped, etc., although important, are somewhat peripheral to the basic skill issues.

According to the information provided to us, there are two general conclusions to be drawn. First, the districts spend far more money on reading and language arts than they do on mathematics. Although mathematics expenditures are greater than other curriculum areas such as science, they pale in comparison to the amounts expended upon reading. Ten of the twenty eight states spend over 50% of their allocation on reading, whereas only six spend more than 20% on mathematics. Across all twenty eight states, 43% of the budget is devoted to reading as contrasted to 12% for mathematics. When the expenditures for the two subjects are combined, the pattern of expenditures on basic skill subjects is quite favorable. Twelve states report expenditures in excess of 50% of the budget, and twenty of the states have basic skill expenditures greater than 40%. Nevertheless, over half of the sample spends less than 50% on basic skills; so there is a need for improvement.

The second observation is that there is a considerable range of expenditure patterns among the states. In reading, the range is from 18% in Idaho to a high of 80% in Nebraska and Washington state. Although there are ten states that spent more than 50% of their budget on reading, there are also six states that spent less than 30% on that subject. In total basic skill

TABLE 29: State Title I Expenditures for
Reading/Language Arts and Mathematics

EGION/STATE	LEA PART A ALLOC/EXP.	READING/LANG. ARTS EXP.	%	MATHEMATICS EXP.	%	TOTALS EXP.	%
REGION I							
assachusetts	$ 26,845,122	$18,254,683	68	$5,637,476	21	$23,892,159	89
ew Hampshire	1,658,391	550,365	33	43,135	3	593,500	36
hode Island	3,971,228	1,707,628	43	130,692	3	1,838,320	46
REGION III							
ennsylvania	58,200,000	24,600,000	42	3,400,000	6	28,000,000	48
irginia	29,716,770	10,955,205	37	1,783,006	6	12,738,211	43
st Virginia	20,524,496	4,870,866	24	135,454	1	5,006,320	25
aryland	18,790,347	10,153,895	54	4,351,500	23	14,670,000	77
REGION IV							
labama	40,257,134	14,182,574	35	4,372,027	11	18,554,601	37
lorida	26,904,182	11,480,258	43	1,223,734	5	12,703,992	48
ississippi	42,214,626	15,209,448	36	5,029,683	12	20,239,171	48
outh Carolina	30,561,852	8,911,699	29	1,959,793	6	10,871,492	35
ennessee	31,273,191	18,763,915	60	4,690,979	15	23,454,894	75
REGION V							
innesota	19,200,000	13,342,000	69	5,606,000	29	18,948,000	98
hio	42,128,991	23,997,056	57	1,823,065	4	25,820,121	61
isconsin	15,879,506	4,452,879	28	491,075	3	4,943,954	31
ichigan	45,897,729	24,417,592	53	10,464,682	23	34,882,274	76
REGION VI							
rkansas	21,685,447	6,000,001	28	1,025,476	5	7,025,477	33
ouisiana	29,371,025	8,920,977	31	3,236,247	11	12,157,224	42
klahoma	17,970,653	6,087,774	34	360,506	2	6,448,280	36
exas	55,371,389	31,182,250	56	992,498	2	32,174,748	58
REGION VII							
ansas	9,807,137	4,528,431	47	602,614	6	5,131,045	53
issouri	25,579,100	7,473,387	29	1,340,822	5	8,814,209	34
ebraska	5,773,600	4,639,329	80	513,067	9	5,152,396	89
REGION VIII							
outh Dakota	6,341,874	2,447,399	39	348,290	5	2,795,689	44
tah	3,280,968	1,385,818	42	321,186	10	1,707,004	52
orth Dakota	4,191,000	2,544,016	61	524,782	13	3,068,798	73
REGION IX							
alifornia	122,028,439	60,690,408	50	38,282,887	28	94,973,293	78
REGION X							
Idaho	2,730,118	497,560	18	29,304	1	526,864	19
Washington	11,191,059	8,952,847	80	2,238,212	20	11,191,059	100
TOTALS	$769,345,374	$331,237,989	43%	$91,320,716	12%	$422,558,705	54%

expenditures, the range is from 19% in Idaho to 100% in the state of Washington. There appears to be a slight regional influence in these expenditure patterns, with the higher percentages found in the Northeast, North Central and Far West states. Lower patterns of expenditures are found in the Southeast, Southwest and Mid Central States. However, this is a less than consistent pattern, for in every region at least one state can be found that does not conform. One variable that is perhaps very important is the rural-urban dimension. Within our sample of states, the SEAs that report the lower expenditure percentages are the rural states. This observation holds true within the regions, also. Thus, it appears that a handful of states, Minnesota, Maryland, Michigan, North Dakota, Washington state, Nebraska, California, and Tennessee, have made significant strides in bringing their Title I programs into focus. The basic skills emphasis found in these states exceeds the legislative proposals now being considered by Congress. In contrast, the majority of the states would appear to need more definitive legislative guidance, if their Title I reading and mathematics programs are to be concentrated effectively.

These are several major problems with these expenditure data that should be explicated before one draws any firm conclusions. Accounting systems vary significantly from state to state. Although all states follow the USOE accounting handbook (Handbook II), it is not compulsory and each state tailors the accounts to fit its unique situation. Thus, comparisons across states are not completely accurate. Furthermore, there is a fundamental conceptual weakness to the Belmont System and in particular the CPIR, the major OE program reporting system. Basically, the CPIR survey requests expenditure data by objective (e.g., reading, math) and by functional category (e.g., testing, fixed charges, etc.). The problem with this mixture of accounts is that some of the expenditures attributed to the functional accounts can, and should, be attributed on a pro-rata basis to the instructional objectives accounts. It is quite obvious, for example, that the fixed charges account category, which usually constitutes teacher fringe benefits, and testing, which includes reading tests, are accounts that in whole or in part are subsumed by the reading project account. Yet, for several years now the CPIR has gathered this hodge-podge of expenditure data and researchers have rather slavishly analyzed it without questioning the concepts upon which the data categories were based.

If some time is spent in analyzing the CPIR budget categories rather than merely the expenditure data, some interesting observations can be made. The 1970 CPIR summary identifies Title I reading/language arts expenditures of $335,654,[illegible] and math expenditures of $5[illegible],112,[illegible], representing 35% and 6% of total Title I expenditures, respectively. However, these data systematically depress the amount of money actually spent upon basic skills in the Title I program. Table 30 contains the percentages determined by the FY 72 CPIR report along with expanded CPIR percentages that we derived from reworking the CPIR data.

TABLE 30: Comparison of CPIR Title I Program Expenditures with Expanded Program Expenditures, as % of Current Operating Expenses, FY 70.

	READING	MATHEMATICS	TOTAL
CPIR Data	35%	6%	41%
Expanded CPIR	58%	10%	68%

Our procedure in determining the expanded CPIR program percentages was simply to take a pro-rata share of other line item accounts and apply them to reading and mathematics. To do this, we first determined what percentages of the CPIR Basic Skills Instruction budget went to reading and math. According to the CPIR 1970 expenditure data for Basic Skills, reading and language arts programs represented 60% of all basic skills expenditures and math programs represented 10%. Thus, supportive costs directly attributable to the programs can be allocated to each program on an equivalent percentage basis resulting in a more precise total Title I expenditure for reading and math. Those support service expenditures identified as directly related are: General Administration, Instructional Administration, Program Development, Pupil Services, Fixed Charges. Audio-Visual and Instructional Equipment included as a part of Capital Outlay, could be allocated on a percentage basis to each program.

The first row in Table 30 presents comparable expenditure data, illustrating total reading and math program costs as a percent of the total operating expenditure as reported by the CPIR. The second row in Table 30 presents reading and math program costs inclusive of the pro-rata share of supporting and capital expenditures as a percent of the total operating expenditures. The allocation of supporting service and equipment costs to total program expenditures increased total reading and language arts expenditures from $345,654,000 to $577,481,000 and total math expenditures from $56,112,000 to $94,750,000. Total reading program expenditures then represent 57% of the total Title I expenditure, an increase of 23.2%, with total math program expenditures representing 9.3% of the total Title I expenditure, an increase of 3.8%. These percentages, although based on generalized cost allocations, not only present a more realistic picture of the Federal dollar investment in reading and math programs for children from low-income areas but also present a much more positive picture as to the degree of effort being expended for these programs.

As we all know, there is more to a budget than meets the eye; and this is particularly true of school district budgets. The legislative proposals that call for a certain percentage to be spent upon basic skills all presuppose that districts maintain a program or instructional objectives budget system. In fact, nothing could be farther from the truth. The vast majority of the districts in this country maintain a functional budget, where expenditures are classified by the material or service purchased and not according to the educational objectives being taught. As we have attempted to demonstrate with the CPIR data reworking, if districts or states were required to, they would simply pro-rate expenditures that are presently separate line-items to reading or mathematics program objectives.

This is not to say that stipulating an expenditure percentage would not be effective in making some districts seriously attend to the basic skill needs of their students. However, it would be unreasonable to expect much more than that rather limited outcome. For most of the districts and states, a 75% expenditure requirement could easily be satisfied by simply changing reporting procedures. It is our opinion that much of the difference in expenditure patterns between the states that spend a high percentage on basic skills and those that spend about the average percentage can be attributed to differences in accounting procedures and not to differences in the scope or intensity of the states' programs. In addition, there is a possibility that such a requirement could also be satisfied by simply changing the name, and hence the budget classification, of the local Title I projects. For example, take a district that has been operating a PreK-1 Title I project based upon the so-called open classroom theory. More likely than not, the name of the project is "The Free Learning Project" or something similar; and it is classified in the district budget as an early childhood education account. In fact, upon examination one would find that 75% of the time in that project is devoted to reading of one sort or another. Consequently, if the new law requires that 75% of the money be spent upon reading, it is probable that the name will become "The Free Reading Project" and the accounting classification will be changed to reading. Again, we would have accomplished only the appearance of change.

In summary, we have attempted to point out some of the problems that could be raised when expectations or assumptions in Washington are not congruent with realities in the school districts. Furthermore, we have attempted to illustrate how we think expenditure figures as collected and reported by USOE probably understate the true amounts being spent upon basic skill instruction in the Title I program. Despite our pessimism about the overall impact of these legislative proposals, we believe that they would be effective in prodding some states and districts to pay attention to basic instruction. As the data in Table 29 indicate, there are a significant number of states that appear not to have responded to Federal administrative exhortations to focus their Title I programs. Because these exhortations have been delivered with considerable urgency since 1969, it would appear that these states are simply not going to respond unless the legislation tells them to do so. We are of the opinion that this is a desirable outcome.

ENROLLMENT STATISTICS*
Out-of-School Catholic Religious Instruction

School Year	Elementary	Secondary	Total
1962-63	2,909,424	1,119,800	4,129,224
1963-64	3,067,794	1,249,137	4,316,931
1964-65	3,285,899	1,304,328	4,590,227
1965-66	3,486,902	1,369,751	4,856,653
1966-67	3,664,070	1,380,756	5,044,826
1967-68	3,856,625	1,499,715	5,356,340
1968-69	3,995,692	1,462,741	5,458,433
1969-70	4,081,929	1,368,817	5,450,746
1970-71	4,181,466	1,303,032	5,484,498
1971-72	4,251,729	1,327,331	5,579,060

*Computed from The Official Catholic Directory published annually by P.J. Kenedy & Sons, New York

Senator Pell. As I say, I agree with this emphasis and as one member of the subcommittee would support it. It goes along the lines of my own approach toward quality in education, trying to have some common denominators of excellence for all our Nation's schools.

You sketched out pretty well your formula. Are there any other facts that should be included in it for the hearing record? I find it very clearly stated. Who is Ms. Orshansky for the record?

Mr. Carlucci. She is right here.

Senator Pell. I think the author of the formula ought to be recognized in the hearing. Would you give her name?

Mr. Carlucci. Her name is Ms. Mollie Orshansky. I would be pleased to have her come join us at the table.

Senator Pell. I think that would be good. I think we should have this in the record.

You work in the Social Security Administration?

Ms. Orshansky. Yes. It is a little difficult to try to resurrect in retrospect something as complicated as the poverty index. I am not quite sure what would be of interest to the committee.

The Social Security Administration for a long time has had as part of its research mandate some concern over the relative welfare or economic status of different population groups, and although social security seems to be synonymous with the aged, for some of us children are at least as important as other people. For me they are more important. And so several years ago we developed as a research tool a formula or a schedule which would help up point out the economic well-being of families with children as opposed to families without and families with one child as opposed to families with more than one child.

We were particularly concerned about the problems of the working poor and those other families with children where for one reason or another the family, usually the mother, does not work.

As you probably know, there are no generally accepted or recognized statutes of need for different categories of family living. In a country like the United States where all of us are, or would like to be, above the subsistence level, it is particularly difficult to agree on such standards. There has been one accepted, at least in the sense of having been used for a long time, of food costs or food plans at different levels of cost, which the U.S. Department of Agriculture has put out for a number of years and which has been used by many social agencies.

These food costs try to juggle—and I use the word advisedly—the recommendation of nutritionists and scientists about what people need in the way of food for a good diet and the way people like to eat, which is not always the same thing.

They, on the basis of recommendations, recommended allowances by the National Research Council for amounts of nutrients that are needed at different ages and sexes, and looking at the preferences of American families are revealed in consumption studies, have over the years as I say, put out what they call food plans or food budgets at different levels of cost.

The lowest level of cost they call the economy plan, and that is probably as inexpensive an array of food as one can put together which would in some way mesh American food preferences with the requirements of an adequate diet.

Senator PELL. Would that be about the same, less or more than my colleague Senator Tunney lived on the last 2 weeks?

Ms. ORSHANSKY. It is, I would say, considerably more than that, although it is not generous.

Senator PELL. He was very emaciated afterward.

Ms. ORSHANSKY. I think I saw in the newspaper that he was living on $1.25 a day.

Senator PELL. Yes.

Ms. ORSHANSKY. Well I think I brought with me, as of now, I will have to divide this [indicating]—I cannot divide in my head—I have to take $38 and take 80 percent of that—let me see, divide this by 4, and you get a little bit less than 8.

It is probably not very different from that level. But I think it is a little bit above.

In any case, if you used that plan and made average choices and were as knowledgeable and as intelligent as the home economist ladies who thought it up, you stand about one chance in two of having what would be considered a fair diet, if you family's needs are average, and about 1 chance in 10 of getting a good diet, if your family's needs are above average. Although I am not plugging it, I might say these amounts are considerably higher than what is used for emergency diets or relief in other countries, but that is neither here nor there.

Anyway, using that food cost level for the base year I was working with, which was the year 1963, and observing that on the average, families in the United States spend for food at a considerably higher level than that plan. We spend $1 out of every $3 for food. We used average family multiplied by 3 for families of two or more, and by somewhat higher amount for two and one person families, because they have higher overhead costs, that such a scale could represent the relative needs for income of families of different sizes and composition in the United States at a possible, acceptable level.

We also put a level which was 25 percent higher, calling it the near poor, which is probably more realistic, but that has not generally been used. The important thing I think to note in any standard, since standards are always arbitrary, is that you cannot possibly fix it so that you make it work or be sensible for every individual family. Some families have higher than average needs and obviously you cannot fit them into any average scale.

Some families, because they are smarter or luckier or have access to other avenues for other resources, are able to do better and might need less. But we cannot put those into an average formula. The important thing is to try to use the one that you pick, the scale that you pick, in such a way that it is equally reasonable or as close to equally reasonable as you can make it, for families of different size and composition. I think that the poverty line which is based on food needs probably does. We did this way back, as a matter of fact, in 1963 even before there was an antipoverty program. The antipoverty program you may remember was announced in January 1964, in the President's economic report at that time, and they used there as a simplistic approach to a poverty line for a family $3,000 for a family of two or more persons regardless of size. We did not feel that that was fair to the large families, relatively speaking. It was giving more weight to the needs of aged people in small families than it was the larger ones.

We went forward with our work with what we then called the Social Security Administration poverty index, as I say, as our own research pool, and for good or for ill, it has been picked up and used first on a voluntary basis, and now on more or less prescribed basis by Federal statistical agencies. No agency is required to use it unless it is in legislation for running its programs, but agencies are supposed to use this in making budget plans and estimates.

Since unfortunately most people would rather pick up something somebody else has done than go through the processing of working their own, these numbers have been used. It is the base line which was designed for 1963 income in food relationships, and it is adjusted each year to conform to the change in the Consumer Price Index published by the Bureau of Labor Statistics.

Senator PELL. Thank you very much. Now one further question here that has always concerned me is that one level which is accurate for one part of the country may not be in another. For instance, in New England, it is cold in the winter, so you need more food, more fuel, more clothes, and hence more money than you would in a great part of the southern portion of the country.

Do you crank in a geographical difference or is this a national grid for the whole country?

Ms. ORSHANSKY. This poverty line is a national average and it does not make gradients for regions of the country. It does have a farm and nonfarm grading. At the time we did this, we said we believed—I think at this time I can say we probably know that the differences in living costs which people think of as they think of one part of the country versus another are not nearly so great as the low level of living we are talking about as they are at higher levels of living. Many of the things which we assume cost less in parts of the country are really not lower priced, for the same thing, there are different choices and lower levels of living enforced by generally low incomes. We do know that there are special circumstances and differences from place to place.

Housing is a very important one. That depends on the city's supply of public housing, construction costs, a whole lot of other things. But the variations in housing as a matter of fact or in rent are often as great within a State or even within a city, in different parts of the city, as they are from one part of the country to the other.

The Bureau of Labor Statistics issues three standard budgets at different levels of living for four persons, a city family. The lowest level, I think now for 1972, a four person family, is about $7,586, which is about 170 percent of our poverty line. The highest one, what BLS calls the liberal level, is almost $17,000.

They have been issuing these scales for the United States, and for about 39 different cities and standard metropolitan areas in four regions for perhaps 7 years now. Each year you find that the range of difference in costs from the low to the high, and there is one, drops very much from the liberal level, which as I say, is now at about $17,000, to the low, which in 1972 was $7,400.

If you recognize that the poverty line is much lower than that, it gives us reassurance that the actual differences in living costs to a family are considerably less at the low level we are talking about than what one might have assumed.

The Bureau of Labor Statistics also notes when they do their budgets that I think roughly half of the difference in living costs from one place to the next, roughly half represent differences in prices of the same thing, and about half is the difference in the choices people make, because of the availability and because of their income scale.

That may or may not persuade you. I can say only that I still believe, and that is generally speaking because we do not have hard evidence yet—that as the size of the city or the community goes down, we can think of living costs going down too. But this may be really quite an unfair way to assess the needs and the market situation of rural and small city families, because we have no way of taking into account the availability and the accessibility of public services. Kids in school, if I may say, in a big city can get to a library and a museum and find encyclopedias and things they need. It may be hard, not the best, but they are there.

Children in small towns or rural areas might have to travel very far to get there and there is not any way of knowing how good it is when they get it. This is true of medical services, too. It is true of many things.

So if we could think of the things which people in the metropolitan areas, which we normally think of as high-cost areas, find available to them, and recognize that many people in rural and small towns, in rural areas and small towns in the country, cannot get to easily, it might be that if we could really measure the true difference of cost of living, whatever it is, it is not really much cheaper if you do not have money to live in one place rather than another.

Senator PELL. First I did some rough arithmetic. I noticed that the lowest poverty level, that is, $7,386 a year for a family——

Ms. ORSHANSKY. That is Bureau of Labor Statistics.

Senator PELL. That is a little more than double the present minimum wage, so it is sort of a striking figure.

Ms. ORSHANSKY. I am not sure it is double, Senator. This is the figure for 1972. The poverty level for four-person family in 1972——

Senator PELL. My point is that the minimum wage, 40-hour week, would be about half of what the poverty level is. I think it is a striking thought, a dreadful thought actually.

Secondly, it would seem to me that one could crank into the formula something to do with the temperature. We have noticed that Boston has one of the highest cost of living of any city in the United States. In general you cannot get away from the fact that heat does cost and you have to heat in the northern part of the country, be it in Washington or the Middle Plain States or New England. You obviously have to have different clothing, and as you well know, you also need more calories to have the same level of life.

Therefore why should not there be cranked into your formula on a rough basis, maybe three different levels, the 10-degree changes in temperature going across the country in lines of latitude?

Ms. ORSHANSKY. Senator, I am not an expert on formulas.

Senator PELL. You certainly are.

Ms. ORSHANSKY. Obviously I have an opinion on everything, but I would like to mention one thing first which bears on what I was saying. If you see the Bureau of Labor Statistics budgets, which are the only things we have which attempts to measure the living arrangements and costs in different places, it does not come out that Boston is uniformly the highest. At the intermediate and the higher levels, which are $11,000 and $17,000—Boston is the highest budget cost. At the lower level, which is considerably higher than our poverty line, Boston does not come out to be the highest.

Now BLS does in their budgets try to work out something for what they call degree days, which would be applied to the cost of fuel and to the kinds of heavy clothing. I am afraid that I feel we have not been equally careful or meticulous in making adjustments the other way. It is sometimes equally costly and equally difficult to be cool and keep respectably clean and fresh when it is hot, as it is to keep warm when it is cold.

There are a lot of compensating, if you want to call them that, factors in a hot place like Tuskegee, where I have never been, that might raise costs compared with Boston. So I do feel that we do not have any hard evidence that there are differences in actual costs for comparable standards of living from place to place at the poverty level. In addition I do not know—I have not worked on this legislation—I do not know whether the regional differential or place-to-place differential you would be looking for would logically apply to how you determine whether the children are disadvantaged or how you determine how much the money that you allocate to the State, so I do not know in what part of the formula you would most relevantly apply this.

Mr. Carlucci. If I may, I would like to pick up on that point, because there are two pieces of the formula. There is that piece which determines the eligibility of children between States and there is that piece which determines the States' payment.

We would use Orshansky plus AFDC over 3,700 to determine the eligible children among the various States. We would then apply a payment rate of 35 percent of the average State per-pupil expenditure. Then we took a look at the cost of the instruction in the various States.

I assume this has been made available to the committee, and if not, we would be glad to make available to you a sheet which shows the percent of expenditures or cost of instruction among various States, the percent of national average.

You find that in general it runs between 75 and 125 percent.

We then began to consider some of the advantages that the high AFDC States had. For example, under our formula, a large family in a high AFDC payment State might well be counted twice. Although the Orshansky formula is adjusted by the Consumer Price Index, AFDC history shows the tendency to go up at the States' option. So there is a double advantage that the high AFDC States have and these are in general the Northern States.

We decided it might be better to put in a higher floor than the 75 percent. Consequently, we came out with the 85 to 125 percent range which we feel deals equitably with the problem and with the advantage that the high AFDC States automatically enjoy.

If I may say a further word, in looking at the formula our goal is obviously to obtain the most accurate count we can of eligible children. You can crank in a whole range of variations. The problem now is that we have a formula that is highly inconsistent and highly variable, and that is one that relates to AFDC for families with income of over $2,000. This means that a State can automatically change its own eligibility criteria simply by raising AFDC payments. Furthermore, there is a wide variety in AFDC data which results in such factors as different eligibility requirements, and different payment standards in recognition of special needs among the States.

We have evidence that the AFDC rolls and payments generally reflect an urban bias that certain ethnic groups are reluctant to participate in AFDC, and that the comparative wealth of a State greatly influences participation in AFDC programs.

The age group of children covered under AFDC varies and may or may not conform to the title I age groups. Still another problem we face in trying to determine a formula is the update problem. We are of course basing our data on a census that is taken once every 10 years. As I mentioned earlier, while that base figure may tend to hold constant, the AFDC, even if we restrict it to $3,700 and above, is likely to move up.

Let me ask Dr. Ottina to review with you some of the other criteria we looked at as a possibility for title I formula and some of the problems associated with each of these.

Mr. OTTINA. In addition to AFDC which Mr. Carlucci has mentioned, we looked at several other alternatives to try to identity the number of children to be served, each of which has its own particular strengths and weaknesses. Let me just briefly highlight some of the weaknesses without going into a great amount of discussion about them.

We looked at test scores. Testing has some appeal, but it runs into a very difficult problem, because here we are talking about a disbursement from the Federal Government to States, so that would imply the need for a national testing effort.

We do not believe that we presently have appropriate tests or the capability to develop them in time to use a national test effort to make judgments about allocations of title I funds on a State by State basis.

Someone suggested a formula based on per capita income, because it was not a variable which was taken only in the 10 year census but was updated measure. Per capita income has a great deal of attraction because it is a yearly figure. But as we looked at the per capita income, it was an average figure, and like all average figures, it could be made up of a family with $9,000 income and $1,000 for average of five, or two families, each of which have $5,000 incomes, which would present quite a different problem in terms of the educational disadvantage that we are trying to seek.

In particular, for example, the District of Columbia has a very high per capita number, and yet it has some of our very severe problems of the educational disadvantaged. That drove us to ways to get below the average. So we looked at social security figures, because they are compiled from returns filed quarterly by employers, but the problem basically is that those who are not employed do not have and do not file social security. In order to capture those people, we would have to rely on some other basis. We in turn looked at IRS. IRS data basically has the same kind of problems. There are over 9 million people, we believe, who do not file IRS returns and are not part of the tax roles. Again these people are those that we are most interested in.

We talked about a flat dollar amount, $2,000, $3,000, $4,000. Each of these, though simple and it does have that very great advantage to administer, have basically the problem of not taking into account family size or differences between urban and rural costs as the Orshansky formula does.

What we came out with in our analysis is that although there are some basic difficulties with Orshansky, primarily it is not a measure that we can update annually—that as a base point it perhaps gives us our best equitable measure to start with.

Senator PELL. Thank you. Going for a second now to the impacted aid program, would you sketch out what the administration would accept—I am not saying what we would accept—what you would accept in lieu of total stoppage of funds for B children? Are you really thinking of total steppage of the B children from civilian families? As you know, this is highly unlikely to have political support in the Congress. I was wondering if you had any thoughts on this.

One thought that was going through my mind, and I would like your reaction on it, is to get rid of the abuses. We are aware there are abuses under it, for instance, in Prince Georges and Montgomery Counties, which have a very high percentage of impacted aid children. Is there any way of putting a ceiling on the impacted aid funds tied to per capita income within provision that eligibles from an income above the national average, would lose that eligibility?

Mr. CARLUCCI. You could do that, Mr. Chairman, or you could use an absorption approach whereby the local community would have to absorb the category B children up to a certain percentage. We would accept a 3-year phaseout of the category B children which represents a change from the position that the Secretary testified to before your committee earlier. As I indicated, we have tried to adopt a more flexible posture, recognizing that this is indeed a problem in the Congress.

Our phaseout proposal would guarantee that no school district in the first year would lose more han 5 percent of its operating budget, and the second year, 10 percent, and in the third year, it would be down to zero. This is a fairly fast phaseout, I am prepared to concede. I can do it for $40 million, which is why we came up with $540 million figure. I guess OMB has now agreed to a $550 million figure. But we think some reform of the category B children is absolutely essential.

I cannot do anything other than to state the administration's position as regards the budget figure, which is that we are prepared to ask for $550 million for fiscal year 1975.

Senator PELL. Why would not a step in the right direction be the approach that I am talking about? It does not go as far as you would like, it goes further than some of us would like, at least it would be a compromise. Again, if the per capita income was, for the sake of argument, 50 percent above the national average, that then there would be no excuse, really, for the B kids?

Mr. CARLUCCI. I would like to take a look at that, if I might, Mr. Chairman, and cost it out and see if I can buy it for my $40 million.

Senator PELL. I have not costed it out either. I was trying to figure out in my mind the way of knocking out the flagrant abuses which should be knocked out in that viewpoint, while at the same time keeping it in the average low-income community where it is needed. I have not talked about this with Senator Beall, who I am sure has an interest in this.

Mr. CARLUCCI. I would be very pleased to look at that and get back to you with our analysis of that type of formula.

Senator PELL. I have not checked it out with my staff. Speaking of phaseout, with regard to the phaseout amendment that the Senate adopted calling for no more than a 10-percent loss of impacted aid when the district is affected by a base closing.

Mr. CARLUCCI. We would support any approach that phases out or scales it down——

Senator PELL. This is tied to the base closing. It has nothing to do with impacted aid phasing out. This was an amendment adopted by the Senate concerning base closings, so that when arbitrarily a base is closed and children are removed, that the district which has made great expenditures and incurred other responsibilities should not be arbitrarily cut off.

Mr. CARLUCCI. Of course as you are aware, Mr. Chairman, section 3(e) does provide for some additional aid to districts that have the problem of phaseout of bases. We also feel that with this section 3(e) aid, a school district could adjust with any 1-year budget cycle. We do not feel that a 3-year legislative proposal is necessary. Is it 5 year? We do not feel that a 5-year legislative proposal is necessary.

Maybe we are not talking about the same thing.

Senator PELL. Yes, we are. You are talking about base closings.

Mr. OTTINA. I understood you to be talking about the cost of indebtedness, bond indebtedness.

Senator PELL. No; that was one of the points that I mentioned, was when a school is just being built to handle a large number of category B kids or category A kids, and the families of the children are removed, the community still has to pay the bond indebtedness on that school. That I realize cannot be covered.

As you know, in the Senate Appropriations Committee, there was some pretty stringent antidecentralization language, which could serve or would serve as a total bar to any decentralization activities. What would be your view with regard to this amendment?

Mr. CARLUCCI. Mr. Chairman, I would appreciate the opportunity to comment on that, because we would oppose such an amendment very strongly. We think that would inhibit the effective operation of HEW programs in general.

I would like to make a distinction between the decentralization rider and the bill that we are talking about today. The bill we are talking about today of course would give more flexibility to State and local governments. We think decentralization is a way to enable us under existing programs or under such programs as they might be modified to offer more effective services from the Federal level to State and local government. At the very least, even if we get the kind of legislation that we are advocating, you are going to have to have some residual Federal functions.

Take, for example, the audit function, the title VI or civil rights function, or the technical assistance function. As the programs presently exist now, we have a great many more functions. Now when we talk about decentralization, I think it is important to start with several premises, which are essentially the Secretary's and my responsibility. We have to insure that we have capable people in the field. We have to insure that we have good communications with the field, that they understand what the policy is and are prepared to implement that policy faithfully.

They also have to understand that we mean them to be responsive to the needs of State and local levels. Finally, they have to understand that we are not cutting off access to the Commissioner of Education nor are we creating another layer between the Commissioner and State and local government. Indeed what we are doing is taking some of the capability, the layer as you might call it, that exists at the Washington level and putting it in the field with decisionmaking authority, decisionmaking authority not only to the extent that they can present options to State and local governments or that they can explain mandatory formula programs to State and local officials but so that regional officials have programmatic responsibilities.

Now if you accept these premises, it then seems important to me to take a look at the role of education in the future of our country. It seems to me that we are running a whole host of programs at the Federal level that impact in one way or another on education—just to mention a few we are looking at now, there is juvenile delinquency program, child abuse program, run-away program, we are talking with the Congress in very active dialogue on manpower programs, a new bill to deal with those programs, and certainly there is a ligitimate educational interest in the whole area of manpower, and in the field of health, we are talking about preventive health, health education, drugs. Surely the drug program as it relates to our school system is important.

The Federal decisions or the Federal packages that will be put together on all of these programs that I mention will be done at the regional level. It is therefore important as far as I am concerned to insure that the education community has its advocate at the regional level, that it has its man that can paraticipate in this dialogue, this man that knows that the doctors are about to put together a drug program, who can go into Des Moines and say, hey, wait a minute, you ought to talk to the chief State school officer about that particular drug program. But as long as the education people in the regions do not have the authority to make decisions, as long as they do not have the kinds of relationships with their colleagues which I believe are essential, I think education will miss an opportunity to participate in a lot of very important programs that will impact the future well-being of our children.

So the goal of decentralization is not to correct any erroneous situation that may exist right now; it is to bring about more effective delivery of Federal programs without interfering in the prerogatives of State and local government.

Senator Pell. That is a very good statement of the administration's viewpoint. I think the record would show why some of us in the Congress would disagree. What decentralization means, as proposed by the administration, is the insertion of another layer of government between Washington and the States. I would support decentralization if it meant that the decisions were made at the State, and that HEW sent representatives of the Federal agency to the State capitol. But when these decisions are moved to regional offices, what it basically means to my mind is that the decisionmaking is then moved from the gentle pressures of the people in the State, and also from the gentle pressures of Congress.

It is not that we seek extra work, but I just want to see the States' interests represented, and that is why I support decentralization to the State level and oppose it at the Federal regional level.

In this regard, would you agree that if this amendment survives—and I recognize the problems—the conference process, that you would then be inhibited from moving further in this direction without the authorization of Congress?

Mr. CARLUCCI. Mr. Chairman, that involves complex legal issues regarding the interpretation of the continuing resolution. I think it would be improper for me to comment on it at this point.

Senator PELL. I am not sure we ought to quite let that stand. Would Mr. Smith, the subcommittee associate counsel, read the text?

Mr. SMITH [reading]

> Whenever the amount which would be made available or the authority which would be granted under an act listed in this subsection as passed by the House is different from that which would be available or granted under such act as passed by the Senate, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.

Mr. CARLUCCI. Is that the continuing resolution which is not yet passed?

Senator PELL. This is present law. I was talking about the anti-decentralization amendment. I can read that.

It says: "None of the funds contained in this act shall be utilized to pay compensation of persons in any of the department's regional offices for carrying out duties of the Office of Education carried out in Washington, District of Columbia, prior to June 1, 1973, unless prior approval is obtained by the authorization and Appropriation Committees of both Houses of Congress."

That is very clear and specific, I would think.

Mr. CARLUCCI. Mr. Chairman, I think in all candor, I must tell you that that kind of provision raises constitutional problems.

Senator PELL. I am aware of that. But from the viewpoint of the law, you would be inhibited.

Mr. CARLUCCI. I think I would have to consult the lawyers before I would make a categorical statement along those lines.

Senator PELL. Let me say for the record as one having had some responsibility for this language, it was intended to prevent decentralization. I realize its chances for survival are not rosy.

The Senator from Vermont.

Senator STAFFORD. Thank you, Mr. Chairman. I really have no questions, but I enjoyed the hearing. I am very pleased, Mr. Secretary, that you and your colleagues have come up here, and I think you have placed some meaningful proposals in front of this subcommittee.

Like the rest of the members of the committee, I believe in getting things done, and I commend the fact that I think that is the attitude the adminisration is taking in the field of ESEA legislation. On the basis of your proposals to the committee, and assuming that possibly both the committee and the administration can go a little further here and there in compromising, I think we can work out a bill and develop something that will be acceptable to this committee, to the Congress, and a bill that can be signed by the President.

I am very glad that you are here and that we can work together in this spirit.

Mr. CARLUCCI. Thank you very much, Senator Stafford.

Senator PELL. Good. I thank you very much indeed.

Are there any other minority questions or views that should be presented? I thank you.

I also really want to congratulate you on the efforts you have made to try to get a working relationship going, because things were really at an impasse, no conversation for a long time. I think the objective here is to try to get better education for our Nation's children, and I would hope that we can move ahead fairly fast on that.

There will be a hearing tomorrow at 10:30 on the nonpublic schools, and a hearing Thursday on the basic grants, and the excellent job incidentally in that regard that the Office of Education is doing. We sent a member of our subcommittee staff, Richard Smith, out to Iowa and he came back very impressed with the excellent job that the act was doing in implementing this legislation.

Mr. CARLUCCI. We are very pleased to hear that.

Senator PELL. My own inability to fill out this application form apparently is not shared by the Nation's high school students.

[The prepared statement of Mr. Carlucci and other material subsequently supplied for the record, follow:]

FOR RELEASE UPON DELIVERY

THE UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

STATEMENT

OF

THE HONORABLE FRANK CARLUCCI

UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE

BEFORE THE

SUBCOMMITTEE ON EDUCATION

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

Tuesday, October 9, 1973

Mr. Chairman, Distinguished Members of the Subcommittee

I am pleased to be here today to discuss legislation to extend and reform the Elementary and Secondary Education Act.

Six months ago, Secretary Weinberger presented to you the Administration's proposal to consolidate and reform many of the Federal categorical aid programs in elementary and secondary education. Since that time we have been meeting with representatives of the education interest groups to review the legislation. These sessions culminated in a meeting last Thursday with the President.

We have also been in continuing and fruitful negotiations and discussions with Members and staff of this Subcommittee as well as the House Education and Labor Committee to obtain the basic principles involved in our elementary and secondary education initiative.

I think it is fair to say that we have demonstrated considerable flexibility and a willingness to work closely with the Congress in an effort to reach an accommodation on the legislation.

The President has encouraged us to try to obtain passage of the legislation this session. I believe that is an attainable goal and I appreciate your willingness, Mr. Chairman, to have Administration witnesses reappear before your Subcommittee.

This afternoon I would like to discuss with you the basic principles which we feel must form the basis for an acceptable ocompromise bill:

First, Federal funds for education of the disadvantaged should be concentrated on those most in need of assistance and should be spent primarily on instruction in the basic skills.

Second, more decision-making authority should be shifted away from the Federal government to State and local officials.

Third, narrow categorical programs should be consolidated.

Fourth, the impact aid program should be reformed.

I would like to discuss each of these principles.

Concentration Through Reform of Title I ESEA

One of our principal concerns with the present law is that it does not ensure an equitable allocation of aid for compensatory education of the disadvantaged.

We have worked hard to develop a Title I formula that will overcome these inequities and ensure that funds are focused on those children most in need of compensatory education. We believe that we have developed a formula that will do the job.

To ensure as accurate a count of disadvantaged children as available data permits, we propose that eligible children be defined as those from families below the Orshansky or Census poverty level, and from families with annual AFDC payments above the $3,700 income level. A State's Title I allocation would be equal to the number of its eligible children multiplied by 35 percent of a State's average per-pupil expenditure. In no event, however, would the average per-pupil expenditure used be less than 85 percent or more than 125 percent of the national average per-pupil expenditure.

States would be required to set aside funds needed for programs for handicapped children, children of migratory workers and neglected and delinquent children. The amount of these payments per child must be equal to, but could not exceed, the highest payment per disadvantaged child in the State.

To determine what share each local educational agency would receive, we would require a State to allocate 70 percent of its Title I funds among all eligible districts based on their proportion of disadvantaged children. The remaining thirty percent would be allocated to school districts heavily impacted with the disadvantaged. Specifically, these priority districts would be defined as any district with either 5,000 disadvantaged children, or a percentage in excess of the State average.

We believe this new allocation formula satisfies objections to our original proposal and at the same time maintains the Administration's commitment to provide additional funds to those school districts with the highest concentrations of disadvantaged children.

Under this new allocation scheme, all eligible districts would receive some Title I funds but priority districts would receive an extra payment, recognizing that districts with heavy enrollments of disadvantaged students face special educational problems.

One feature of S. 1319 which we feel must be retained in compromise legislation is the requirement that at least 75 percent of a district's Title I funds be used for instruction in reading and mathematics. Research evidence shows that compensatory education projects with a strong focus on basic skills are able to impact and improve the performance of disadvantaged pupils, that compensatory education which stresses reading and mathematics does work.

Data from the Belmont Surveys indicate that between 1967 and 1970, about 38 percent of Title I funds went for instruction in basic skills. More recent data shows that in many States the amount of Title I funds spent on basic skills exceeds our proposed 75 percent. But there are a significant number of States that have not focused their Title I programs and it is our opinion that they should be required by law to do so.

Strengthening State and Local Decision-Making

We should develop legislation which encourages State and local governments to make decisions and to supply those services for which their closeness to the people best qualifies them. In order to do this we should eliminate the requirement for Federal review and approval of many separate, detailed State and local plans. Many of the witnesses who have come before your Subcommittee in the past few months have reinforced our contention that the delivery system for the existing maze of programs, involving separate plans, regulations, application forms and evaluations, is so complex that State and local educational agencies find it extremely difficult or impossible to coordinate and concentrate Federal funds effectively.

Consolidation

Another principle we believe must be embodied in a new education bill is consolidation of categorical education programs. We are encouraged by the action of the House Committee on Education and Labor in consolidating a number of existing categorical programs. In marking up an elementary and secondary education bill, the Committee has approved the consolidation of Title II, ESEA (School Libraries), Title III, NDEA (Equipment and Minor Remodeling) and the Guidance and Counseling Section of Title III, ESEA into a Library and Instructional Resources Program. The Committee has also agreed to a consolidation of Title III, ESEA (Innovation), Title V, ESEA (Strengthening State Departments of Education), and Title VIII, ESEA (School Health and Nutrition and Dropout Prevention) into an Educational Innovation and Support Program. We feel that still more consolidation of program authorities is both feasible and necessary.

For example, we urge consolidation of Parts A-H of the Vocational Education Act and the permanent appropriation under the Smith-Hughes Act into a block grant to States for the broad purposes of these programs. Funds provided under this new authority would be divided among the States in proportion to their school age population. The set-aside for the handicapped now in the Vocational Education Act would be retained in its current form. Such a consolidation in the field of vocational education has been urged in recent weeks by the National Education Association, the Education Commission of the States, the American Association of School Administrators, and the Advisory Commission of Intergovernmental Relations.

Reform of Impact Aid

While the House General Education Subcommittee had recommended substantial reforms in the Impact Aid Program, these changes were unfortunately not approved by the full Education and Labor Committee. The reform would have provided for a phase-out of payments for civilian "b" children whose parents work outside the school district and requiring school districts to "absorb" 3 percent of their "b" children before being reimbursed for any additional "b" children. Unfortunately, these reforms were not accepted by the full Committee. We would hope that the momentum for reforming this program could be recaptured in the Senate.

The Administration's position on reform of Impact Aid is well known. We feel it is essential to limit suppport under this program to pupils whose parents reside on Federal property and we are prepared to accept a phase-out of funding for category "b" children.

Conclusion

In my discussions with representatives of the education groups, I told them that if a bill embodying the principles I have just outlined to you is approved by the Congress, the Administration is prepared to support the legislation. If an acceptable compromise is enacted, the Department would seek a 1974 supplemental appropriation for an additional amount of $550 million and forward funding authority for the 1974-75 school year. Every State would then know how much Federal aid it could expect to receive in time to develop more effective plans for its use.

I recognize that we will have the differences of opinion over the significance of this amount. Our points of departure may be different, but I think it would be futile to enter into a discussion of FY 73 spending levels since that year has passed and we are still under a continuing resolution for 1974. For those of us in the Administration responsible for education this amount represents a positive gain of $550 million -- the first time the President, on his own initiative, has agreed to make a commitment of a substantial increase in funding well in advance of the presentation of the budget to Congress.

I would be pleased to answer any questions you might have about the Administration's position on aid to elementary and secondary education.

BEST COPY AVAILABLE

Prepared 9/24/73

TABLE I

DISADVANTAGED ALLOCATION FORMULA -- H.R. 69 AMENDED *

State	Title I FY 73 (1)	H.R. 69 Amended * [illegible] (2)	[illegible] (3)	Background Information % Change in Population (60 - 70) 1/ (4)	State Per Pupil Expenditures (5)
[illegible]	[illegible]	[illegible]	43745.	5.4	[illegible]
[illegible]	[illegible]	[illegible]	3875.	11.6	[illegible]
[illegible]	[illegible]	[illegible]	18345.	16.1	[illegible]
[illegible]	[illegible]	[illegible]	29519.	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	169915.	23.9	[illegible]
[illegible]	[illegible]	[illegible]	17077.	25.8	[illegible]
[illegible]	[illegible]	[illegible]	28019.	19.6	1128.?
[illegible]	[illegible]	[illegible]	4576.	22.9	[illegible]
[illegible]	[illegible]	[illegible]	55718.	37.1	[illegible]
[illegible]	[illegible]	[illegible]	45299.	16.4	[illegible]
[illegible]	[illegible]	[illegible]	4578.	21.7	[illegible]
[illegible]	[illegible]	[illegible]	4771.	6.9	[illegible]
[illegible]	[illegible]	[illegible]	103294.	10.2	[illegible]
[illegible]	[illegible]	[illegible]	26779.	11.4	[illegible]
[illegible]	[illegible]	[illegible]	14876.	2.4	[illegible]
[illegible]	[illegible]	[illegible]	14318.	3.2	[illegible]
[illegible]	[illegible]	[illegible]	33883.	6.0	[illegible]
[illegible]	[illegible]	[illegible]	52408.	11.9	[illegible]
[illegible]	[illegible]	[illegible]	4338.	2.5	[illegible]
[illegible]	[illegible]	[illegible]	31035.	26.5	[illegible]
[illegible]	[illegible]	[illegible]	59325.	10.5	[illegible]
[illegible]	[illegible]	[illegible]	87478.	13.4	[illegible]
[illegible]	[illegible]	[illegible]	26735.	11.5	[illegible]
[illegible]	[illegible]	[illegible]	43767.	1.8	[illegible]
[illegible]	[illegible]	[illegible]	50376.	8.1	[illegible]
[illegible]	[illegible]	[illegible]	5244.	2.9	[illegible]
[illegible]	[illegible]	[illegible]	9813.	5.1	[illegible]
[illegible]	[illegible]	[illegible]	2148.	71.1	[illegible]
[illegible]	[illegible]	[illegible]	3791.	21.5	[illegible]
[illegible]	[illegible]	[illegible]	47068.	18.2	[illegible]
[illegible]	[illegible]	[illegible]	13345.	6.8	[illegible]
[illegible]	[illegible]	[illegible]	223941.	8.7	[illegible]
[illegible]	[illegible]	[illegible]	53349.	11.5	[illegible]
[illegible]	[illegible]	[illegible]	5373.	-2.3	[illegible]
[illegible]	[illegible]	[illegible]	62990.	9.7	[illegible]
[illegible]	[illegible]	[illegible]	22340.	9.9	[illegible]
[illegible]	[illegible]	[illegible]	15125.	18.2	[illegible]
[illegible]	[illegible]	[illegible]	91855.	4.2	[illegible]
[illegible]	[illegible]	[illegible]	3579.	10.5	[illegible]
[illegible]	[illegible]	[illegible]	32945.	8.7	[illegible]
[illegible]	[illegible]	[illegible]	4556.	-2.1	[illegible]
[illegible]	[illegible]	[illegible]	19934.	10.0	[illegible]
[illegible]	[illegible]	[illegible]	107952.	16.9	[illegible]
[illegible]	[illegible]	[illegible]	7112.	18.9	[illegible]
[illegible]	[illegible]	[illegible]	9093.	18.1	[illegible]
[illegible]	[illegible]	[illegible]	19217.	17.2	[illegible]
[illegible]	[illegible]	[illegible]	24815.	19.5 *	[illegible]
[illegible]	[illegible]	[illegible]	19136.	-6.2	[illegible]
[illegible]	[illegible]	[illegible]	28435.	11.8	[illegible]
[illegible]	[illegible]	[illegible]	2035.	1.7	[illegible]
[illegible]	[illegible]	[illegible]	12771.	-1.0	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	NA	[illegible]
[illegible]	[illegible]	[illegible]	1885335.	13.3	[illegible]

* A State's allotment is based on the product of its number of low income children and the Federal payment rate per low income [illegible] H.R. 69 amended defines:

. Low income children as those from a family of income less than $3000 in the 1970 Census or 2/3 of children from families on welfare receiving over $3000 in AFDC payments.

. Payment rate per low income child is 40% of State average per pupil expenditures with limits of the national average or 1.20% of the national average expenditure per pupil.

* A hold harmless provision limits reductions in State payments to 85% of their FY 73 LEA payment.

1/ Statistical Abstract of United States, 1971, p. 13.

TABLE II

DISADVANTAGED ALLOCATION FORMULA - ORSHANSKY AND AFDC OVER $3,700

State	Title I FY 73 (Estimate)	Orshansky Plus AFDC Over $3,700			
		.85 and 1.25[1]		.75 and 1.25[2]	
		$1810M	$1885M	$1810M	$1885M
ALABAMA	33821.	44741.	46647.	43742.	42430.
ALASKA	3556.	3677.	3825.	3786.	3943.
ARIZONA	11690.	15477.	16113.	15550.	16611.
ARKANSAS	27626.	[illegible]	27232.	23610.	24588.
CALIFORNIA	127401.	146713.	156340.	153310.	159662.
COLORADO	13360.	14976.	15595.	15437.	16076.
CONNECTICUT[3]	14765.	15870.	16527.	16360.	17038.
DELAWARE	3565.	4735.	4931.	4872.	5073.
FLORIDA	37534.	57837.	60223.	59613.	62083.
GEORGIA	43658.	48576.	50537.	44139.	45968.
HAWAII	4254.	4534.	4716.	4668.	4861.
IDAHO	3944.	4417.	4632.	4019.	4186.
ILLINOIS	77252.	96096.	100078.	99061.	103169.
INDIANA	22337.	24223.	25289.	25033.	26070.
IOWA	16443.	15323.	15958.	15796.	16451.
KANSAS	11263.	12341.	12853.	12722.	13250.
KENTUCKY	34057.	34531.	36014.	31455.	32758.
LOUISIANA	35757.	52787.	54970.	54412.	56667.
MAINE	6735.	6587.	6850.	6751.	7030.
MARYLAND	22427.	29337.	30553.	30243.	31456.
MASSACHUSETTS	29314.	39019.	40636.	40224.	41890.
MICHIGAN	61765.	75432.	78556.	77759.	80981.
MINNESOTA	24444.	24810.	25838.	25576.	26635.
MISSISSIPPI	37164.	42974.	44755.	39089.	40709.
MISSOURI	28852.	29815.	31052.	30737.	32011.
MONTANA	4437.	4972.	5178.	5125.	5338.
NEBRASKA	8167.	8767.	9130.	9037.	9412.
NEVADA	1714.	2147.	2238.	2265.	2359.
NEW HAMPSHIRE	2545.	2849.	2967.	2936.	3058.
NEW JERSEY	53771.	64923.	67626.	66938.	69712.
NEW MEXICO	9405.	13836.	14251.	13513.	14177.
NEW YORK	213160.	216356.	225330.	223045.	232287.
NORTH CAROLINA	53762.	52681.	54863.	47918.	49906.
NORTH DAKOTA	5331.	5032.	5240.	4957.	5158.
OHIO	50394.	53687.	55917.	55350.	57644.
OKLAHOMA	15566.	21171.	21344.	19166.	19960.
OREGON	12237.	14347.	14938.	14786.	15399.
PENNSYLVANIA	73424.	95935.	99937.	98755.	102899.
RHODE ISLAND	5654.	5587.	6235.	6177.	6428.
SOUTH CAROLINA	33025.	34579.	35959.	31407.	32709.
SOUTH DAKOTA	4217.	5834.	6128.	5685.	5920.
TENNESSEE	34385.	40666.	42351.	36933.	38522.
TEXAS	93801.	113175.	117865.	108035.	112480.
UTAH	4540.	5695.	5931.	5314.	5536.
VERMONT	3137.	3143.	3273.	3241.	3374.
VIRGINIA	35298.	37180.	38658.	39255.	40882.
WASHINGTON	17913.	22635.	23628.	23370.	24356.
WEST VIRGINIA	13814.	17323.	14662.	17131.	17810.
WISCONSIN	21456.	25405.	26556.	26236.	27376.
WYOMING	1629.	2313.	2439.	2318.	2483.
DIST OF COLU	11681.	10871.	11331.	11196.	11650.
ALL OTHERS	47001.	54300.	56550.	54330.	56557.
TOTAL	1517796.	[illegible]	1884997.	1809936.	1884999.

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[1] A State's allotment is determined by the number of its low income children multiplied by the Federal payment per low income child.

- Low income children are those from families under the Orshansky poverty line plus those from families on welfare receiving AFDC payments over $3,700--poverty line for a family of four in 1970. Special category children are also included.
- Payment per low income child is 85% of State average expenditures per pupil limited to a minimum rate of 85% and a maximum of 125% of the national average expenditure.

[2] Low income remains Orshansky plus AFDC over $3,700. The payment per low income child is the same as above except that the limits are between 75% and 125% of the national average per pupil expenditure.

[3] AFDC children may be underestimated for Connecticut.

Prepared 9/24/73

TABLE III

DISADVANTAGED ALLOCATION FORMULA -- ORSHANSKY *

State	Title I FY73 (1)	Orshansky		Background Information	
		$1810M (2)	$1885M (3)	% Change in Population (1960-1970) (4)	State Per Pupil Expenditures (5)
ALABAMA	37421.	54318.	56590.	5.4	593.0
ALASKA	3956.	4970.	5176.	33.6	1504.0
ARIZONA	11090.	18044.	18792.	36.1	917.0
ARKANSAS	23526.	31619.	32734.	7.7	567.0
CALIFORNIA	127933.	127325.	132642.	27.0	925.0
COLORADO	13350.	15657.	16347.	25.8	881.0
CONNECTICUT	14745.	14943.	15562.	19.6	1129.0
DELAWARE	3565.	4838.	5039.	22.8	1103.0
FLORIDA	37534.	65752.	68518.	37.1	942.0
GEORGIA	43668.	58870.	61309.	16.4	630.0
HAWAII	4256.	4331.	4511.	21.7	1005.0
IDAHO	3744.	5233.	5450.	6.9	660.0
ILLINOIS	77252.	71516.	74430.	10.2	1035.0
INDIANA	22337.	26929.	28044.	11.4	850.0
IOWA	16443.	15325.	15959.	2.4	945.0
KANSAS	11263.	13913.	14490.	3.2	826.0
KENTUCKY	34357.	41806.	43538.	6.0	599.0
LOUISIANA	35757.	62242.	64821.	11.9	817.0
MAINE	6736.	7815.	8139.	2.5	785.0
MARYLAND	22627.	29227.	30438.	26.5	1074.0
MASSACHUSETTS	29314.	25739.	26836.	10.5	962.0
MICHIGAN	63765.	55228.	57517.	13.4	1057.0
MINNESOTA	24444.	24333.	25342.	11.5	1082.0
MISSISSIPPI	33956.	52136.	54294.	1.8	533.0
MISSOURI	26692.	35724.	37204.	8.3	795.0
MONTANA	4438.	5573.	5809.	2.9	842.0
NEBRASKA	8143.	9528.	9923.	5.1	862.0
NEVADA	1314.	2370.	2468.	71.3	888.0
NEW HAMPSHIRE	2585.	3247.	3332.	21.5	806.0
NEW JERSEY	52771.	43905.	45726.	18.2	1192.0
NEW MEXICO	9409.	16601.	17289.	6.8	762.0
NEW YORK	219140.	192544.	200532.	8.7	1544.0
NORTH CAROLINA	57762.	63861.	66507.	11.5	559.0
NORTH DAKOTA	5331.	5977.	6225.	-2.3	756.0
OHIO	50559.	59330.	61789.	9.7	870.0
OKLAHOMA	18944.	25299.	26347.	9.9	678.0
OREGON	12232.	14236.	14826.	18.2	1035.0
PENNSYLVANIA	73428.	72391.	75391.	4.2	1028.0
RHODE ISLAND	5655.	5733.	6023.	10.5	1033.0
SOUTH CAROLINA	33020.	41889.	43626.	8.7	638.0
SOUTH DAKOTA	5217.	7022.	7312.	-2.1	763.0
TENNESSEE	34335.	49334.	51378.	10.0	506.0
TEXAS	92801.	137028.	142706.	16.9	731.0
UTAH	6943.	6626.	6900.	18.9	715.0
VERMONT	3132.	3077.	3205.	14.1	920.0
VIRGINIA	35093.	44056.	45279.	17.2	916.0
WASHINGTON	17918.	18649.	19422.	19.5	945.0
WEST VIRGINIA	18314.	21739.	22640.	-6.2	731.0
WISCONSIN	21436.	25257.	26303.	11.8	1029.0
WYOMING	1429.	2385.	2434.	1.7	797.0
DIST OF COLUMBIA	11381.	10151.	10572.	-1.0	1196.0
PUERTO RICO	0.	0.	56550.		
ALL OTHERS	47611.	54300.	1884996.	NA	1000.0
TOTAL	1574996.	1809996.		13.3	929.0

* A State's allotment is determined by its low income children multiplied by the Federal payment rate per low income child. This formula defines:

. Low income children as those from families below the Orshansky poverty line.

. Payment rate is current law -- State average expenditure per pupil with a minimum rate of a national average expenditures per pupil.

TABLE IV

Disadvantaged Allocation Formula -- $2,000 and AFDC Over $2,000
(Current Law - 1970 Census)*

State	Title I FY 73 (1)	$2,000 and AFDC Over $2,000* $1810.M (2)	 $1885.M (3)
ALABAMA	37421.	24530.	25546.
ALASKA	3956.	4649.	4341.
ARIZONA	11080.	13144.	13639.
ARKANSAS	23626.	13332.	14455.
CALIFORNIA	127503.	197382.	205561.
COLORADO	13360.	17029.	17734.
CONNECTICUT	14245.	22262.	23184.
DELAWARE	3545.	4153.	4325.
FLORIDA	37534.	38831.	40440.
GEORGIA	43668.	34845.	36290.
HAWAII	4256.	5633.	5918.
IDAHO	3544.	4052.	4220.
ILLINOIS	77252.	105907.	110295.
INDIANA	22337.	25483.	26539.
IOWA	15443.	13687.	14254.
KANSAS	11263.	12295.	12835.
KENTUCKY	34057.	25343.	26393.
LOUISIANA	35757.	34022.	35431.
MAINE	6736.	7956.	8286.
MARYLAND	22627.	31553.	32860.
MASSACHUSETT	29314.	41730.	43460.
MICHIGAN	63765.	82536.	86038.
MINNESOTA	24444.	23535.	24510.
MISSISSIPPI	38566.	24705.	25729.
MISSOURI	26692.	25231.	26277.
MONTANA	4438.	4113.	4234.
NEBRASKA	8143.	8177.	8516.
NEVADA	1314.	1811.	1836.
NEW HAMPSHIR	2565.	3223.	3354.
NEW JERSEY	52771.	75545.	78676.
NEW MEXICO	9409.	11003.	11459.
NEW YORK	219140.	326283.	339803.
NORTH CAROLI	57762.	36298.	37802.
NORTH DAKCTA	5331.	3900.	4062.
OHIO	50559.	64612.	67239.
OKLAHOMA	18944.	17743.	18484.
OREGON	12232.	15164.	15792.
PENNSYLVANIA	73428.	99626.	103754.
RHODE ISLAND	5655.	7713.	8033.
SOUTH CAROLI	33020.	19940.	20766.
SOUTH DAKOTA	6217.	4621.	4812.
TENNESSEE	34385.	21216.	22095.
TEXAS	92801.	80018.	83334.
UTAH	4940.	6605.	6878.
VERMONT	3132.	2951.	3083.
VIRGINIA	35099.	30661.	31932.
WASHINGTON	17918.	23337.	24306.
WEST VIRGINI	18814.	13055.	13595.
WISCONSIN	21456.	24751.	25777.
WYOMING	1829.	1735.	1807.
DIST OF COLU	11831.	17067.	17775.
ALL OTHERS	47601.	54300.	56552.
TOTAL	1584994.	1809998.	1884999.

*A State's allotment is based on the product of its number of low income children and the Federal payment rate per low income child. Current law defines:

- Low income children as those from a family of income less than $2,000 in the 1970 Census or children from families on welfare receiving over $2,000 in AFDC payments.
- Payment rate per low income child is 50% of the higher of the State average or National Average Expenditure per pupil.

Background Information

ELIGIBLE 5 - 17 TITLE I POPULATION IN FY65 and FY72

State	FY 65		FY 72	
	Children Under $2000 (2)	AFDC Over $2000 (3)	Children Under $2000 (4)	AFDC Over $2000 (5)
50 States & D.C.	4,948,140	582,578	4,948,119	2,921,631
Alabama	242,522	--	242,522	1,078
Alaska	4,796	919	4,796	4,444
Arizona	38,851	5,603	38,851	17,717
Arkansas	148,158	--	148,158	--
California	206,572	102,097	206,572	566,387
Colorado	33,581	7,322	33,581	32,509
Connecticut	20,731	7,595	20,731	42,253
Delaware	7,422	—	7,422	5,228
Florida	142,533	—	142,533	19,292
Georgia	239,789	—	239,789	—
Hawaii	8,832	2,413	8,832	11,356
Idaho	12,257	2,411	12,257	5,587
Illinois	147,518	82,499	147,518	211,327
Indiana	76,386	3,515	76,386	31,760
Iowa	71,789	9,265	71,789	27,270
Kansas	40,263	5,449	40,263	27,933
Kentucky	193,559	--	193,559	29,527
Louisiana	201,090	192	201,093	12,006
Maine	18,408	2,725	18,403	17,329
Maryland	53,716	9,420	53,716	53,908
Massachusetts	47,065	16,817	47,065	104,790
Michigan	124,712	21,029	124,712	148,837
Minnesota	77,280	11,678	77,280	39,624
Mississippi	254,903	--	254,903	—
Missouri	125,159	11,297	125,159	35,433
Montana	14,106	1,484	14,106	5,610
Nebraska	34,417	672	34,411	14,487
Nevada	3,238	675	3,222	2,369
New Hampshire	5,932	1,052	5,932	5,414
New Jersey	59,845	25,496	59,845	165,912
New Mexico	37,554	4,315	37,554	15,180
New York	200,060	99,890	200,060	553,315
North Carolina	323,096	3,515	323,096	24,386
North Dakota	23,346	1,775	23,346	4,849
Ohio	151,895	25,472	151,895	113,416
Oklahoma	84,779	11,168	84,779	28,836
Oregon	23,933	6,295	23,933	27,737
Pennsylvania	175,394	60,258	175,394	223,225
Rhode Island	12,083	4,007	12,083	17,033
South Carolina	206,638	--	206,638	3,980
South Dakota	30,712	1,528	30,712	7,134
Tennessee	220,048	—	220,048	—
Texas	398,224	—	398,210	65,250
Utah	11,680	2,109	11,680	11,591
Vermont	7,208	580	7,208	5,821
Virginia	167,874	3,008	167,874	42,991
Washington	33,072	9,865	33,072	37,092
West Virginia	106,406	82	106,406	14,634
Wisconsin	58,446	10,445	58,446	35,410
Wyoming	5,408	661	5,408	1,791
District of Columbia	14,854	5,900	14,854	30,621

Prepared 10/1/73

SELECTED MEASURES OF SCHOOL AGE CHILDREN, BY STATE

State	Age 5-17 (000) (1)	Orshansky (000) (2)	AFDC	Over 1/
			$3700 (3)	$4000 (4)
ALABAMA	932.0	272.1	0.0	0.0
ALASKA	89.0	12.4	0.7	0.4
ARIZONA	435.0	84.0	0.5	0.3
ARKANSAS	497.0	155.1	0.0	0.0
CALIFORNIA	[illegible]	595.9	136.6	93.2
COLORADO	588.0	71.3	3.0	2.0
CONNECTICUT	768.0	55.1	6.0	4.0
DELAWARE	149.0	17.4	0.1	0.1
FLORIDA	1603.0	293.6	0.0	0.2
GEORGIA	1223.0	251.9	0.3	0.0
HAWAII	204.0	19.5	1.6	1.1
IDAHO	199.0	23.7	0.6	0.4
ILLINOIS	2359.0	302.3	128.9	95.4
INDIANA	1385.0	123.5	2.2	1.9
IOWA	742.0	72.0	2.4	1.6
KANSAS	571.0	64.6	2.0	1.1
KENTUCKY	843.0	204.5	0.7	0.5
LOUISIANA	1039.0	304.9	0.1	0.1
MAINE	259.0	35.3	0.9	0.6
MARYLAND	1037.0	117.0	4.9	1.7
MASSACHUSETTS	1436.0	116.9	73.2	56.5
MICHIGAN	2447.0	120.5	101.5	85.4
MINNESOTA	1050.0	93.9	5.5	4.0
MISSISSIPPI	634.0	261.7	0.0	0.0
MISSOURI	1132.0	173.0	1.0	0.7
MONTANA	156.0	25.0	0.4	0.3
NEBRASKA	337.0	45.0	1.1	0.7
NEVADA	126.0	10.9	0.0	0.0
NEW HAMPSHIRE	189.0	14.3	0.7	0.5
NEW JERSEY	1796.0	155.7	99.1	81.5
NEW MEXICO	310.0	93.6	0.0	0.0
NEW YORK	4355.0	526.4	321.0	270.3
NORTH CAROLINA	1322.0	312.5	0.2	0.9
NORTH DAKOTA	175.0	27.4	0.6	0.3
OHIO	2327.0	273.5	17.4	12.4
OKLAHOMA	639.0	122.5	1.3	0.9
OREGON	534.0	54.0	2.5	1.7
PENNSYLVANIA	2922.0	304.6	122.4	100.2
RHODE ISLAND	224.0	24.5	1.4	1.2
SOUTH CAROLINA	719.0	207.0	0.0	0.0
SOUTH DAKOTA	187.0	33.9	0.6	0.4
TENNESSEE	1031.0	245.2	0.0	0.0
TEXAS	2999.0	636.8	1.4	0.9
UTAH	312.0	30.8	1.4	1.0
VERMONT	117.0	13.1	1.0	1.0
VIRGINIA	1197.0	214.4	3.0	2.5
WASHINGTON	879.0	30.7	21.9	17.3
WEST VIRGINIA	442.0	125.4	0.0	0.0
WISCONSIN	1231.0	103.9	4.3	3.2
WYOMING	92.0	13.1	0.0	0.0
DIST OF COLUMBIA	164.0	37.2	5.4	3.6
ALL OTHER	357.0	471.2	0.0	0.0
TOTAL	[illegible]	3392.0	0.0	0.0
			1031.9	845.2

1/ AFDC counts based on estimates made by SRS. Data were unavailable for small population States, particularly Connecticut and Rhode Island, and AFDC children may be under-estimated.

AVERAGE SALARY OF INSTRUCTIONAL STAFF, 1972-1973 *

State	Dollars	% of National Average
Alabama	8,262	78
Alaska	15,176	143
Arizona	10,863	102
Arkansas	7,613	72
California	12,700	119
Colorado	10,280	97
Connecticut	11,200	105
Delaware	11,100	104
District of Columbia	--	--
Florida	9,740	92
Georgia	8,644	81
Hawaii *	10,900	102
Idaho	8,058	76
Illinois	11,564	109
Indiana	10,300	97
Iowa	10,564	99
Kansas	8,839	83
Kentucky	8,150	77
Louisiana	9,388	88
Maine	9,277	87
Maryland	11,787	111
Massachusetts	11,200	105
Michigan	12,400	117
Minnesota	11,115	104
Mississippi	7,145	67
Missouri	9,329	88
Montana	8,908	84
Nebraska	9,080	85
Nevada	11,472	108
New Hampshire	9,313	88
New Jersey	11,750	110
New Mexico	8,600	81
New York	14,300**	134
North Carolina	9,314	88
North Dakota	8,362	79
Ohio	9,800	92
Oklahoma	8,200	77
Oregon	9,949	93
Pennsylvania	11,000	103
Rhode Island	10,800	101
South Carolina	8,310	78
South Dakota	8,034	75
Tennessee	8,450	79
Texas	9,029	85
Utah	8,990	84
Vermont	9,110	86
Virginia	9,842	92
Washington	11,100	104
West Virginia	8,505	80
Wisconsin	10,812	102
Wyoming	9,900	93

* Source: NEA Estimates

** The mean salary (p.22) has replaced the median salary reported in the NEA table for comparability with the other States.

PER PUPIL EXPENDITURES AT ALTERNATIVE PAYMENT LIMITS AROUND THE NATIONAL AVERAGE

Selected Limits	Expenditures Per Pupil
75%	$ 697
80%	743
85%	790
120%	1150
125%	1161
130%	1207
National Average............	$ 929

	1972	1973		1974			
	Appropriation	Appropriation 1/	Operating 2/	Budget Proposal	House Passed Bill	Senate Passed Bill	Administration Compromise (FY 75)
1. DISADVANTAGED							
ESEA, Title I Handicapped Set-Asides	1,597,500	1,810,000	1,585,185	1,585,185	1,810,000	1,810,000	1,805,000
2. HANDICAPPED, EHA							
State Grant Program (Part B)	37,500	50,000	37,500	37,500	50,000	50,000	10,000
Special Target Programs							
(a) Deaf Blind Centers	7,500	15,795 3/	15,795 3/	10,000	10,000	15,795	NO INCREASE OVER PRESIDENT'S BUDGET
(b) Early Childhood Projects	7,500	16,222 3/	16,222 3/	12,000	12,000	12,000	
(c) Specific Learning Disabilities	2,250	3,250	3,250	3,250	3,250	5,000	
(d) Regional Resource Centers	3,[illegible]	7,243	7,243	7,243	7,243	7,243	
Innovation and Development	6,105	9,916	9,916	9,916	9,916	9,916	
Technology and Communications							
(a) Media Services and Captioned Films	10,500	13,132 3/	13,132 3/	13,000	13,000	13,000	
(b) Recruitment and Innovation	500	500	500	500	500	500	
Special Education & Manpower Development	34,595	41,261 3/	41,261 3/	37,700	37,700	45,[illegible]15	
TOTAL (EHA)	110,000	157,319	144,819	131,109	143,609	1[illegible],069	141,109
3. VOCATIONAL EDUCATION							
VOCATIONAL EDUCATION ACT, PARTS:							
A - National Advisory Council	330	330	330	330	330	330	
State Advisory Councils	2,690	3,204	2,690	2,690	3,204	3,204	
B - State Grants	376,682	426,682	376,682	376,682	426,682	450,000	
102 (b) Special Needs	20,000	29,898	20,000	20,000	20,000	20,000	
C - Research Grants to States (1/2 of total)	9,000	9,000	9,000	9,000	9,000	9,000	+ $37,000 IF CONSOLIDATED
D - Innovation (1/2 of total)	8,000	8,000	8,000	8,000	8,000	8,000	
F - Consumer/Homemaker	25,625	38,322	25,625	25,625	25,625	40,000	
G - Cooperative Education	19,500	19,500	19,500	19,500	19,500	19,500	
H - Work Study	6,000	10,524	6,000	6,000	6,000	10,524	
Smith - Hughes Act	7,161	7,161	7,161	7,161	7,161	7,161	
TOTAL (VEA)	474,988	552,621	474,988	474,988	525,502	567,719	511,000

1/ Congressional Interpretation of Continuing Resolution
2/ HEW Interpretation of Continuing Resolution

3/ Amounts include funds appropriated in Second Supplemental ($13,800,000) but not obligated until FY 1974.

	1972	1973		1974			
	Appropriation	Appropriation 1/	Operating 2/	Budget Proposal	House Passed	Senate Passed	Administration Compromise (FY 75)
4. SAFA A	180,500	195,665	195,665	232,000	217,820	217,820	ADD
B	331,380	390,330	322,330	0	323,680	347,480	40,000
Other	8,000	8,000	8,000	0	8,000	8,000	FOR B
Disaster	35,000	0	68,000	0	0	0	PHASEOUT
Section 6	37,700	41,500	41,500	41,500	41,500	41,500	
PUBLIC HOUSING	0	10,000	0	0	0	0	
TOTAL (SAFA)	592,580	645,495	635,495	273,500	591,000	614,800	313,500
5. INNOVATION							
ESEA, Title III	146,393	171,393	146,393	146,393	146,393	146,393	ADD
ESEA, Title V	33,000	53,000	37,964	0	38,000	45,000	40,000
Drop Out (ESEA VIII)	10,000	10,000	8,500	4,000	4,000	4,000	FOR CON-
Nutrition (ESEA VIII)	2,000	2,500	2,000	0	2,000	2,000	SOLIDATION
TOTAL (INNOV)	191,393	236,593	194,857	150,393	190,393	197,393	190,393
6. SUPPORT SERVICES							
ESEA, Title II	90,000	100,000	90,000	0	90,000	100,000	ADD 115,000 FOR
NDEA, Title III	50,000	50,000	2,000	0	25,000	42,500	CONSOLIDATION
TOTAL (SUP SER)	140,000	150,000	92,000	0	115,000	142,500	
TOTAL ELEMENTARY AND SECONDARY EDUCATION PROGRAMS	3,106,461	3,327,513	3,175,344	2,618,175	3,375,504	3,491,481	3,156,002
7. OTHER EDUCATION PROGRAMS							
Adult Education							
State Grants (Section 304)	51,300	75,000	51,300	51,300	51,300	60,000	
Special Projects	7,000	7,000	7,000	7,000	7,000	7,000	
Teacher Training	3,000	3,000	3,000	3,000	3,000	3,000	
Drug Abuse Education	12,400	12,400	12,400	3,000	12,400	3,000	
Environmental Education	3,180	4,000	3,180	0	4,000	2,000	

1/ Congressional Interpretation of Continuing Resolution

2/ HEW Interpretation of Continuing Resolution

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF EDUCATION
199 Promenade Street, Providence, Rhode Island 02908

Fred C. Burke, Commissioner

May 25, 1973

The Honorable Claiborne Pell
325 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Pell:

Presently there are three Bills proposed for the extension and/or revision of the Elementary and Secondary Education Act of 1965, which expires on June 30, 1973. A most important provision of the Act, and one which has received a great deal of controversy is Title I.

I thought this report might be of interest to you. It attempts to place some objective research in support of the program. I hope it proves to be of some value.

Sincerely,

Robert A. Berlam
Coordinator
Federal Programs

RAB:pve
Enclosure

TITLE I: CATALYST FOR CHANGE

by James H. Bissland

Assigned by a newspaper to research an article on the effects of Title I of the Elementary and Secondary Education Act in Rhode Island, an out-of-state writer found more than he had expected: not only was Title I helping disadvantaged children directly, it was also having significant secondary effects on the state's entire educational system. This is his report on the "spin-off" effects of Title I.

***

In what may be the most influential current of educational change to sweep across the state since the days of Horace Mann, a quiet revolution is taking place in Rhode Island schools.

The revolution is quiet--and far from fully appreciated--because it is taking place in a dozen different ways, many of them on the local level, and under the guise of something people often regard simply as another poverty program: Title I of the Elementary and Secondary Education Act.

Title I, a visitor finds on touring the schools and talking with teachers, administrators and parents, may have been seen initially as compensatory education for poor children when it was passed back in 1965, but in the years since it has evolved into a pedagogical watershed.

It did so because for the first time in Rhode Island history substantial amounts of extra money was pumped into the school systems, enabling them to innovate, improve themselves, and put theory to the toughest test available, the problems posed by disadvantaged children. In so doing, Title I affected the education of Middle America's children as well.

"I would say that Title I has condensed into little more than half a dozen years what would probably have taken 20 or 30 years otherwise," observes Dr. Edward R. Welling, Jr. of [illegible], a former school superintendent now serving as a consultant to the Providence school system.

It is a difficult phenomenon to measure. By gathering standardized test data from the many reading programs funded by Title I, the Rhode Island Department of Education can show each year that thousands of youngsters who had previously been falling further and further behind their peers in reading, have been "caught" and are well on their way to catching up.

But how do you measure the fact that an ESEA comparability requirement forced a school department to erase long-standing inequities between poor neighborhood schools and ones in better neighborhoods? Or that troubled children can now get warm, knowledgeable help any time they need it from the full-time counselor assigned to their school? Or that a mill town's school system, once on the downgrade, is fast becoming a showplace of innovation?

These--and many other things--can be termed "spin-off" effects of Title I.....things that took Federal money, disbursed under strict and often complex guidelines, to accomplish. Things that might never have happened because they seemed too expensive, or radical, or inconvenient. Things above and beyond the primary stated goals of Title I.

Spin-off takes place in several ways. One can be seen in Newport, where two target schools are served by fulltime guidance counselors. "Back then, we had nothing--zero," says Principal John Caswell of Sullivan School in describing the kind of on-the-spot guidance services available four years ago. If a child's personal or academic problem was beyond the capacity of his teacher or principal, an appointment had to be made days or weeks in advance with a specialist located elsewhere.

But Sullivan Elementary School serves a military-civilian housing project with a large number of children troubled by low-income, unstable family situations. At Caswell's request, a guidance counselor was assigned to Sullivan fours ago...under Title I money.

Soon, however, the city was able to shift the cost to state compensatory money, and now Newport pays the Sullivan counselor itself to serve the entire school population of 465 youngsters. Meanwhile, grant money has been used to introduce a counselor at a second Newport elementary school.

And so, according to Assistant Superintendent of Schools Sydney O. Williams, there is hope--provided local money can be found--of leap-frogging fulltime guidance services into all 12 of the city's elementary schools. But it all started with Title I.

Guidance counseling is not the only example of the spin-off effect at work in Newport. Part of the city's Corrective Reading Program, launched under Title I, is expanding to all schools in the city, with grades 1 to 3 now supported by local funds.

The expansion of reading and guidance services in Newport exemplify a state-wide phenomenon. "More often than not, school departments that introduced Title I reading programs have gone on to fund them locally," says URI reading expert Dr. Marion L. McGuire, noting there were only nine reading specialists in the state in 1965--and now there are hundreds. Similarly, in 1965-66 only two of the state's school systems had elementary guidance counselors, now, thanks to Title I, ESEA, and Title V, NDEA, 23 do.

What a school system learns from conducting Title I programs can affect it profoundly. "Our main thrust for educational change came from Title I," says Dr. Charles E. Shea, Jr., superintendent of schools in Pawtucket. "We've been able to begin a real turn-around in our approach to education."

Title I came as a shot in the arm to Pawtucket, which in 1965 was suffering from a desultory local economy and an obsolete school plant. Now, says Shea, "we're well advanced in open schools, open classrooms, team teaching and individualized instruction. And it grew out of our experience with GRASP."

GRASP reflects Pawtucket's "teamed" use of Title I money; through the years it has coordinated such features as guidance, reading, physical education, bi-lingual education and English as a Second Language, computer-assisted math, and supportive services including health, physical therapy, tutoring, and social service. Audio-visual has played an important role; with Title I funds Pawtucket developed a mobile

Instructional Resources Laboratory, a kind of traveling treasure house of films and other materials which visits 15 schools twice each week. That in itself is innovative.

Dr. Shea points to Pawtucket's handsome new Anna Burns Elementary School as an example of a "modified open school." Non-graded, it enrolls children on levels equivalent to kindergarten through sixth grade. Instead of the traditional self-contained classrooms, it is divided into a number of large, well-lighted and carpeted areas with such names as Cobblestone Common, Woodlawn Terrace and Pleasant Valley. At the heart of the building is what once would have been known as a library, but is now called a multi-media center. Among the children, however, it is known as The Village Green.

In any one area several teachers can be seen working with a number of groups of varying sizes; in addition some children will be doing independent work. In all, there may be as many as 150 children in a room, but a sense of crowding or of noise is lacking.

In open education, explains Henry Cote, Pawtucket's Title I coordinator, the teacher serves as a resource person rather than as a traditional instructor; the youngsters work individually and in small groups with encouragement and advice from the teacher, and the emphasis is on problem solving and decision making. The value of this approach was demonstrated to Pawtucket by its Title I projects.

"Title I has been the one big opportunity for the schools to try something new," says Cote. "These things, like Burns, just don't happen in a vacuum." In fact, Miss Beatrice Donovan, the city's first Title I coordinator and now its director of elementary education, has made almost every school in the system non-graded on levels K-3. As Cote explains, "She used GRASP as the change agent."

Worth watching for future spin-off effect is Providence's new corrective-preventive reading program, which is implicitly designed as a change agent. Dissatisfied with the conventional reading program funded by Title I, the city revamped its approach and now uses reading specialists as resource persons...part of whose job is to give classroom teachers more reading skills. The long-term result should be a vastly larger number of reading-skilled teachers serving all children with reading problems, not just those in Title I programs. "The idea is to move it gradually into the main bloodstream of the school department, freeing up federal money to move into other areas," Dr. Welling says.

In the course of things the state's colleges have been influenced as well.

Title I's insatiable demand for evaluative data has helped create two agencies expected to play increasing roles in shaping Rhode Island education: the Curriculum Research and Development Center at the University of Rhode Island and the Center for Evaluation and Research at Rhode Island College.

Both centers may hold the key to meeting one of education's nagging problems: the lack of objective data about what it is doing. It is this lack of hard data which has made convincing evaluation of education so elusive, leaving it vulnerable to opinion and sometimes unsubstantiated criticism. By coordinating teams of experts versed in the latest methods of analysis, the bureau approach may well lay the groundwork for greater public accountability by the schools.

As well as the CRDC, URI has introduced its "Alternate Curriculum" for teacher education, in part the result, says Dr. Robert MacMillan, of Title I's clear demonstration that student teachers were not developing adequate sensitivity to the special needs of pupils.

"We found that we should get the students back into the schools, even though they'd just gotten out of them," says Dr. MacMillan, chairman of URI's Department of Education.

"Now they start in their freshman year (as student aides, one day a week) instead of waiting for student teaching in their junior or senior years. Every year we send them out, not only to schools, but to hospitals, state institutions--anyplace that will help them understand what a kid is."

Students, faculty members and local schools are "most enthused" over the program, now in its second year, MacMillan says, adding, "We could place four times as many students as we have."

Helping prospective teachers to "understand what a kid is" is a key phrase, for it epitomizes Title I's influence in humanizing education, in moving many educators from a traditional and simplistic view of a child as "someone to be taught at" to a recognition that every child is a complex needs and capabilities, and is wholly unique.

Says Dr. Lenore DeLucia, professor of psychology at Rhode Island College: "The idea of the school dealing with the child as a whole organism, of recognizing such needs as psychological, medical, dental, social work on the home front, even food and clothing--of even recognizing that value structures differ, has come largely from Title I."

This growing recognition that schools should "measure up to the kids" rather than the other way around has manifested itself in many ways, some of them rooted in psychology, others in humanism, but all working to make schools better. For example:

--The widening use of teacher aides and other paraprofessionals, reflecting one of Title I's most important lessons: individual attention, and individualized programs, are critical to success in school, particularly when the children are disadvantaged. Paraprofessionals in some cases relieve teachers of routine chores, freeing them for work with the children; in other cases, aides even serve as assistants to teachers. "Back in '65, there was nobody doing this kind of thing," says Dr. Eleanor McMahon, Rhode Island College's dean of educational studies. "My impression now is that they're quite wide spread."

--A substantially increased variety of learning materials, produced by publishers and manufacturers in response to the immense market created by Title I. Schools, in turn, have learned that there is no one kind of reading material that can be used with equal success with all children; instead, says URI's Dr. McGuire, "many schools use a variety of materials. The teachers are getting used to it--it's opened their minds to diversity. It used to be, you know, that if a child failed once, he had to do the same book all over again."

Title I has had other derivative effects as well. One has been a heightening of a sense of cooperation and mutual purpose between public and non-public schools. By bringing both systems under the same umbrella, Sister Therese Cornellier, PM, director of federal and state programs, of the Diocese of Providence's school department believes Title I has "definitely brought the two administrations together. It's meant a much greater appreciation by each side of what the other does."

Many of the guidelines concerning use of Title I have been developed in the years after ESEA's original passage in 1965; two important rulings have been those governing parent involvement and comparability.

Each Title I program is supposed to have a parent advisory committee; too often either parent apathy or professional resistance has thwarted true involvement. But slowly--as demonstrated by Providence's PACT group, for example--parents may be playing a greater role in planning and monitoring school programs. George Marks, principal of Providence's Fogarty Elementary School, notes, "Parents are getting a piece of the action, finally. They're getting much more sophisticated, too. I find that they ask some good, pointed questions--questions that SHOULD be asked." And Mrs. Constance Gomes, chairman of PACT, declares, "No one alone can educate the kid. It's everybody's job."

Comparability obliges a school system to demonstrate that it is giving each of its schools a fair share of local funding and staffing. Intended to prevent a school system from using Title I money to meet what are fundamentally local obligations, the comparability requirement has caused headaches for local administrators, but it has awakened many to inequities.

inequities that meant children were not being given equality of educational opportunity. An official of one of the state's city school systems, says, "We hadn't realized what we were doing. For example, in staffing, some schools were getting more experienced people than others." And other factors, such as pupil-teacher ratios and per-pupil expenditures, were found to be unfair as well.

Educators agree that the need for seed money will continue for a long time to come. "It took us 10 years to put a man on the moon, and we spent more money than we ever did on Title I," says Dr. Welling. "To say it's all over for Title I in seven or eight years is rather myopic." And Robert Stearns, acting Title I coordinator in Providence, says, "If we're ever going to change education here, the key is federal money. There's no way we can ever get enough money locally."

"A great deal of the progress we've made wouldn't have been possible without Title I," observes one Rhode Island educator. "What it did was give people in the school systems a chance to see programs in action. It planted the seed."

COALITION FOR CHILDREN
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STATEMENT IN OPPOSITION TO THE EXTENSION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

The Coalition for Children is OPPOSED to the extension of the Elementary and Secondary Education Act for the following reasons:

1. The documented failure of Title I funds to significantly raise the learning achievement of disadvantaged children. (See article attached) Educationists must be held ACCOUNTABLE for the ESEA funds they have expended in the past.

2. Cuts in federal funding bring anguished cries from vested interests (e.g., the National Education Association) that Congress is ignoring the "needs of children." In fact, federal funds for education have gone primarily not "to the children" but to educationists! Rep. Edith Green writing in the Public Interest (Summer, 1972), documents case histories of Office of Education funding to "educational entrepreneurs" who have enriched themselves and not the children -- at our expense!

3. In flagrant violation of the intent of Congress, Title III of the Elementary and Secondary Education Act has been used to fund experimental programs in which children and teachers have been subjected to violations of privacy, attitude and value indoctrination, sensitivity training, and a host of other assaults on the dignity and individuality of the human personality in the name of social engineering. These grants are DOCUMENTED in Pacesetters in Innovation (available from HEW, order number: OE 20103-69), which lists all "projects" funded under Title III through 1969.

Parents in increasing numbers are questioning the policies and the philosophies of the education establishment. We question educationists who have presided over the continuous decline in achievement in the basic skills. Their standard alibi that "learning problems stem from the home" is difficult to swallow in view of the evidence that disadvantaged children CAN be taught to read IF they are taught by competent teachers using PHONICS reading methods. Cf., George Weber, "Inner-City Children Can Be Taught to Read: Four Successful Schools," Council for Basic Education, 1972.

We wonder at those who say that history is obsolete and then obtain federal grants to develop programs called "future studies." We object to programs that subject children to experimental psychological techniques such as role-playing, sensory awareness and self-analysis, and questionnaires that invade family privacy. We note that NO EVIDENCE has been produced that demonstrates that this "mental health" approach to education leads to greater learning. We ask our Congressmen to reflect: Is this what THEY mean by QUALITY EDUCATION?

We are appalled that Catherine Barret, President of the National Education Association has said that teachers must be "agents of change" and we would like to know how many teachers have been forced into this social engineering concept of education against their will. We wonder if most Congressmen are aware that the NEA views schools as "clinics" where children receive "psycho-social treatment."

The question of extending the Elementary and Secondary Education Act will soon become a matter of debate in Congress. As parents, our only vested interest in this bill is our children and all the children of this land. We urge you to examine with care the claims of the educationists and to redirect and oversee the funds they expend in your name. The record will speak for itself. What is at stake is nothing less than the future of our country: our young people.

STATE UNIVERSITY OF NEW YORK AT ALBANY
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DEPARTMENT OF ECONOMICS

September 13, 1973

Senator Claiborne Pell, Chairman
Senate Subcommittee on Education
U. S. Senate
Washington, D. C. 20510

Dear Senator Pell:

I am enclosing for your own information and the benefit of your staff a paper I have recently written on the problem of equalizing educational opportunity. It has occurred to me that the paper might be suitable to include in your Subcommittee hearings on the Better School Act as part of the record.

The first part of the paper provides a brief review of recent court decisions. On page 12 I discuss the concept of "power equalization" which has been adopted to some extent by your own state of Rhode Island and then go on to discuss the range of fiscal alternatives that are available to states to help improve the equality of educational opportunity.

In designing a better system of Federal aid, your subcommittee might consider the possibility of aid formulas which provide the states with an economic incentive to utilize such alternatives as school district consolidation or a minimum school tax rate with the proceeds above the state's "foundation level of school support" being returned to the state for distribution to poorer school districts as means to improve the equality of educational opportunity.

Sincerely,
Edward F. Renshaw
Edward F. Renshaw
Professor of Public Finance

Equalizing Educational Opportunity

by

Edward F. Renshaw, Director
Municipal Finance Study Group
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Recent court decisions have focused public attention on the inequality of educational opportunity which results from an unequal distribution of taxable wealth. While some of the momentum for greater equality may have been lost as a result of the recent U. S. Supreme Court decision, there is reason to believe that a competitive economic system might help to bring about a revolution in school finance similar to the changes which the U. S. Supreme Court refused to impose on our federal system.

In this paper we will briefly review recent court decisions, analyze the range of fiscal alternatives that are available to states from the perspective of "power equalization," and then consider some of the issues which might be addressed in future court decisions.

It seems clear that most states could do a much better job of promoting equality of educational opportunity without sizable increases in state budgets, massive reorganization of local school districts, or a major abrogation of existing systems of financing public education. Incremental improvements in the equality of educational opportunity may not be as feasible from a political point of view in some instances, however, as a more heroic assumption by the state of most of the cost of financing elementary and secondary education.

Brief Review of Recent Court Decisions

Article XI, Section 1 of the Constitution of the State of New York reads:

> The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.

Article VIII, section IV, paragraph 1 of the 1947 Constitution of the State of New Jersey goes even further in affirming the state's responsibility to provide free education:

> The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and 18 years.

In the now famous Supreme Court decision involving Brown v. Board of Education it was observed that:

> Today, education is perhaps the most important function of state and local governments. . . . In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be available to all on equal terms.[1]

The 14th Amendment to the U. S. Constitution says ". . . nor shall any State . . . deny to any person within its jurisdiction the equal protection of the laws." In concluding that the statutes of New Jersey do not provide the equality of educational opportunity which is demanded by the State Constitution, Superior Court Judge Theodore I. Botter has observed:

> There is no compelling justification for making a taxpayer in one district pay a tax at a higher rate than a taxpayer in another district, so long as the revenue serves the common State educational purpose. Moreover, education is too important to the State as well as the children of the State to be largely controlled by the haphazard distribution of real property wealth. The State and its courts have a special solicitude for the welfare of children since they have little control over their own destinies. Children may become wards of the court simply to insure that they be provided with "proper protection, maintenance and education." N.J.S.A. 9:2-9; N.J.S. 2A:4-2; see State v. Perricone, 37 N.J. 463, 476(1962). Education is not left

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[1] 347 U. S. 483, 493 (1954). This was the case which outlawed segregated public schools.

> to the discretion of a parent. By statute every parent is compelled to have his child between ages six and 16 attend schools. The public school that he attends is entirely the creation of State laws. As was said in Van Dusartz, supra, "What is important to note is that the objection to classification by wealth is in this case aggravated by the fact that the variations in wealth are State created. This is not the simple instance in which a poor man is injured by his lack of funds. Here the poverty is that of a governmental unit that the State itself has defined and commissioned. . . ."
>
> The present system of financing public elementary and secondary schools in New Jersey violates the requirements for equality contained in the State and Federal Constitutions. The system discriminates against pupils in districts with low real property wealth, and it discriminates against taxpayers by imposing unequal burdens for a common State purpose.[1]

The equal protection thesis was first advanced in 1965 by Arthur Wise, Associate Dean of the Graduate School of Education, University of Chicago in, "Is Denial of Equal Educational Opportunity Constitutional?"[2] He later elaborated upon it in Rich Schools, Poor Schools.[3] A similar thesis has been advanced by Coons, Clune and Sugarman, in "Educational Opportunity: A Workable Constitutional Test for State Financial Structures,"[4] and in Private Wealth and Public Education.[5]

Early court cases originating in Illinois, West Virginia and Florida did not find unequal support for education to be a violation of the 14th amendment. In the Illinois case, the Supreme Court affirmed without comment a ruling by the Federal District Court that the Illinois school financing system was "rational" because it was designed to "allow individual localities to determine their own tax burden according to the importance they placed on public schools."[6]

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[1] Superior Court of New Jersey Law Division - Hudson County Docket No. L-18704-69. Reprinted in The Daily Bond Buyer, February 7, 1972, p. 10.

[2] XIII Administrator's Notebook, No. 6, University of Chicago, February, 1965.

[3] University of Chicago Press, 1968.

[4] 57 Cal. L. Rev. 305 (1969).

[5] Belknap Press of Harvard University Press, 1970.

[6] Paul Heffernan, "The Editor's Corner," The Daily Bond Buyer, October 16, 1972, pp. 1 and 24.

In New York, State Supreme Court Justice Joseph F. Hawkins last year dismissed a case challenging reliance on the local property tax to finance public schools. He held that the Supreme Court had already affirmed the constitutionality of traditional school financing in 1969 and in 1970 by upholding the decisions of Illinois and Virginia courts to the effect that the courts could not determine whether there had been a constitutional violation of equal protection because the "needs" of students in terms of equal educational opportunity was too nebulous a concept.[1]

The now historic decision of the California Supreme Court in Serrano v. Priest appears to have shifted the focus of concern, however, from a determination of "need" to the idea that differences in the quality of education should not be a function of differences in taxable wealth per pupil.

> In 1968-69, Beverly Hills had a tax rate of $2.38 and an expenditure of $1,232 per pupil; neighboring Baldwin Parks' tax load was $5.48, but it could spend only $578 per pupil.
>
> The California holding would forbid this linking of affluence and spending, but that is all it would do. It would not proscribe the use of a real property tax; nor would it require (though it would permit) the legislature to impose uniform spending statewide. In fact, the legislature could continue to delegate to existing district authorities the choice of spending level, so long as each district was given equal capacity to raise money.[2]

Courts in Minnesota, New Jersy, Wyoming and Texas followed California in affirming that the existing system of school finance in their respective states was in violation of the 14th amendment. (The New Jersey decision went even farther in contending that the existing system also violated the State's own constitution.) One tabulation published in January, 1972, listed 23 court cases in 17 states and noted that additional suits are reputed to be pending which would bring to 20 the number of states involved.[3]

In April, 1972, the U. S. Supreme Court announced that it would hear an appeal by the State of Texas over the ruling by a special panel of three federal judges in Rodriguez v. San Antonio Independent School District declaring that the State's system of educational finance violates the 14th amendment. Thirty states joined Texas in a friend of the court action to urge a reversal arguing that the judges have limited the freedom of states to govern themselves. Minnesota, Maine, South Dakota, Wisconsin and Michigan filed a brief supporting the lower court decision.

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[1] Ibid., p. 24.

[2] John E. Coons, "Equal Dollars for School Districts," The New York Times, November 1, 1971, p. 41.

[3] The Lawyers' Committee for Civil Rights Under Law, "Law Suits Challenging State School Finance Systems," January, 1972, 733 15th St., N. W., Room 520, Washington, D. C., 20005.

In the majority opinion handed down in the Rodriguez Case by the U. S. Supreme Court it was noted:

> We must decide, first, whether the Texas system of financing public education operates to the disadvantage of some suspect class or impinges upon a fundamental right explicitly or implicitly protected by the Constitution, thereby requiring strict judicial scrutiny. If so, the judgment of the District Court should be affirmed. If not, the Texas scheme must be examined to determine whether it rationally furthers some legitimate, articulated state purpose and therefore does not constitute an invidious discrimination in violation of the equal protection clause of the 14th Amendment.

In a five to four decision, the conservative majority on the U. S. Supreme Court concluded that education "is not within the limited category of rights guaranteed by the (U. S.) Constitution," that the Texas system has "not been shown to discriminate against any definable class of 'poor' people or to occasion discriminations depending on the relative wealth of the families in any district," and that "the Texas system does not violate the equal protection clause of the 14th Amendment." The majority noted:

> Though concededly imperfect, the system bears a rational relationship to a legitimate state purpose. While assuring basic education for every child in the State, it permits and encourages participation in the significant control of each district's schools at the local level.

In arriving at their decision, the majority appear to have been more apprehensive about the larger issue of why equalization should be limited to state boundaries and why education should be considered more important than other kinds of government services than about evidence in support of an invidious discrimination that might be in violation of the 14th Amendment.[1]

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[1] The majority cite a Connecticut study which found that "poor families" were clustered around industrial and commercial areas, which is not surprising in an industrial state, but did not try to determine whether a similar pattern would be discovered in Texas, which is a low income state and has far more rural poverty.

> If local taxation for local expenditure is an unconstitutional method of providing for education, then it may be an equally impermissible means of providing other necessary services customarily financed largely from property taxes, including local police and fire protection, public health and hospitals and public utility facilities of various kinds. We perceive no justification for such a severe denegration of local property taxation and control as would follow from the appellees' contentions. It has simply never been within the constitutional perogatives of this Court to nullify statewide measures for financing public services merely because the burdens or benefits thereof fall unevenly depending upon the relative wealth of the political subdivisions in which citizens live. . . .
>
> No scheme of taxation, whether the tax is imposed on property, income, or purchases of goods and services, has yet been devised which is free of all discriminatory impact. In such a complex arena in which no perfect alternatives exist, the Court does well not to impose too rigorous a standard of scrutiny lest all local fiscal schemes become subjects of criticism under the equal protection clause.

In 1970-71, property rich Alamo Heights received $491 in state aid per pupil from the basic Foundation Program administered by the State of Texas, while the Edgewood School District, with less than one-eighth as much taxable wealth per pupil, received only $356 per pupil. In his dissenting opinion, Associate Justice Thurgood Marshall noted:

> What the Court fails to emphasize is the cruel irony of how much more State aid is being given to property rich Texas school districts on top of their already substantial local property tax revenues.

It should be emphasized that the U. S. Supreme Court did not condone the existing system. In his concurring opinion, Associate Justice Potter Stewart notes:

> The method of financing public schools in Texas, as in almost every other state, has resulted in a system of public education that can fairly be described as chaotic and unjust.

Writing for the majority, Associate Justice Lewis E. Powell, Jr. concluded:

> We hardly need to add that this Court's action tod[illegible] is not to be viewed as placing its imprimatur on the status qu[illegible] The need is apparent for reform in tax systems which may well have relied too long and too heavily on the local property tax. And certainly innovative new thinking as to public education, its methods and its funding, is necessary to assure both a higher level

> of quality and greater uniformity of opportunity. These matters merit the continued attention of the scholars who already have contributed much by their challenges. But the ultimate solutions must come from the democratic pressures of those who elect them.

In 48 of our 50 states the provision of public education is mandated by state constitutions.[1] "No other state function," according to Justice Marshall, "is so uniformly recognized as an essential element of our society's well-being." Two weeks after the U. S. Supreme Court failed to uphold the Rodriguez Case, the New Jersey State Supreme Court upheld with some modification the judgment of Judge Theodore I. Botter that the existing statutes for financing elementary and secondary education in New Jersey violate the State's own constitution because they discriminate against students in districts with low real property ratables and also discriminate against taxpayers by imposing unequal burdens.

This ruling followed the U. S. Supreme Court by rejecting Judge Botter's decision that there was a violation of the 14th Amendment, but upheld him in his ruling that there was a violation of the State's own constitution:

> In light of the foregoing, it cannot be said the 1875 amendments were intended to insure statewide equality among taxpayers. But we do not doubt that an equal educational opportunity for children was precisely in mind. The mandate that there be maintained and supported "a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of 5 and 18 years" can have no other import.
>
> Whether the State acts directly or imposes the role upon local government, the end product must be what the Constitution commands. A system of instruction in any district of the State which is not thorough and efficient falls short of the constitutional command. Whatever the reason for the violation, the obligation is the State's to rectify it. If local government fails, the State government must compel it to act, and if the local government cannot carry the burden, the State must itself meet its continuing obligation.

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1. Prior to the U. S. Supreme Court's decision in Brown v. Board of Education, every state had a constitutional provision directing the establishment of a system of public schools. But after Brown, South Carolina repealed its constitutional provision and Mississippi made its constitutional provision discretionary with the State Legislature.

The New Jersey decision, which cannot be appealed to the U. S. Supreme Court, opens up the possibility that the school finance laws in other states will be found to violate provisions which are contained in their own state constitutions.[1] While it is not clear how the courts in other states will react to the decisions of the U. S. and New Jersey Supreme Courts,[2] it is quite clear that many state legislatures have not been living up to their responsibility to provide or insure equal educational opportunity.

In the State of New Jersey, for example, the tax resources per pupil are reported to vary from $10,000 of equalized property value for the community of Lakehurst to over $400,000 per pupil for the community of Mantoloking. Mantoloking spends $1,498 per pupil and taxes its property at a rate of 0.3%; Lakehurst spends only $733 per pupil and has a school tax rate of 6.3%. Great Neck and Levittown, N.Y., are two Long Island communities only 10 miles apart. Each levies a school tax of $2.72 per $100. Yet Great Neck raises four times as much money as Levittown. In Wyoming, one school district raises $14,554 per pupil while another raises only $6.3 per pupil - a disparity of 2,255%.[3]

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[1] In Michigan, Gov. William G. Milliken is suing in state courts to get Michigan's system of financing declared unconstitutional under the equal protection clauses of both the State and the Federal Constitutions. The Michigan Supreme Court on Dec. 29, 1972, upheld Gov. Milliken's position in a 4 to 3 decision. Subsequently, however, two new justices were appointed to the bench, and the newly reconstituted court granted a rehearing. It has been reported that as of early April 1973 there were 25 cases before various state courts which are based on provisions contained in state constitutions.

John E. Coons, a professor at the University of California at Berkeley, who heads the team of lawyers for the Plaintiffs in the Serrano case says "Serrano is alive and healthy and will remain so barring some kind of cataclysm," since the suit is based on the principle of equal protection guaranteed by the California Constitution. "It stands like last year's ruling on capital punishment, with or without the agreement of the U. S. Supreme Court." See, John Winders, "Rodriguez Ruling Aftermath: What Did It Really Settle?" The Daily Bond Buyer, March 23, 1973, p. 30.

[2] The arguments that were used by the Court in the New Jersey Case to declare the present system of school finance were rooted in history and bolstered by a very strong constitutional mandate in behalf of a "thorough and efficient" system of free public schools. It is questionable whether the Courts in other states, with weaker constitutional provisions, will overturn existing systems of financing elementary and secondary education.

[3] "The Coming Change in the Property Tax," Business Week, February 12. 1972. pp. 50-56.

One solution to the problem of unequal resources for the support of elementary and secondary education would be to have the state take over the entire burden of financing local education, a solution which was recommended in a recent report of the Fleischmann Commission in the State of New York.[1] This could be a rather costly solution, however. In answer to the question, if Rodriguez is upheld, how much will it cost, James McGrew, Executive Director of the Texas Research League has suggested:

> Theoretically, it could cost nothing, for the principle of fiscal neutrality could be invoked by having the state take over the full cost of public education and provide that the current average expenditure be applied uniformly throughout the state. This, of course, would mean that the per pupil expenditure in some districts would be greatly increased, while in other districts it would be greatly decreased. It is therefore, only a theory.
>
> In practice, many, if not all, of the high expenditure districts are going to insist that their current level of expenditure be maintained. The level of equalization finally chosen through the political process would determine the total cost. Some estimates indicate that this might amount to $8 billion nationwide, but work in Texas seems to indicate that this might be a conservative figure.[2]

A complete takeover of school financing by the state would probably make it very difficult for communities that value education highly to spend more on the education of their children than other districts. This solution would appear to go beyond the principle of "fiscal neutrality" advanced in the Rodriguez decision: "Briefly summarized, this standard requires that the quality of education may not be a function of wealth, other than the wealth of the state as a whole." The state, said the court, "may adopt the financial scheme desired so long as the variation in wealth among the governmentally chosen units do not affect spending for the education of any child."[3]

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1. Report of the New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education, January, 1972.

2. James McGrew, "School Financing Decision Now Up to Supreme Court: Can Problems be Solved by Simple Declarative Decree?" The Bond Buyer, First SIA Public Finance Conference Issue, September 14, 1972, p. 19.

3. *Ibid.*, pp. 17 and 18.

In the New Jersey case Justice Botter noted: "If monies are supplied to local districts from general state revenues sufficient for a 'thorough' education, some districts may still desire to add to that sum from local property taxes. This may reintroduce inequities of various sorts; however, the issue was not argued, and my decision is not intended to reflect upon it."

Another disturbing feature of a complete takeover of school financing by state governments is that it might make it rather difficult for central cities with higher living costs and an unfavorable educational environment to effectively compete for competent teachers. While fiscal disparities have been a problem, educational finances have become more balanced between cities and their suburbs over time. In 1962 the central cities in the 37 largest metropolitan areas spent less than 85% as much, on the average, per pupil as their suburbs. In that year only a few central cities spent more per pupil. In 1970, however, only 20 central cities in the 72 largest metropolitan areas spent less per pupil on education than their surrounding suburbs. Average spending per pupil in the larger central cities is now about ten per cent greater, on the average, than in the suburbs.[1] Many educators would regard this as a desirable turnabout since our central cities usually have a much higher percentage of children from low income families where educational handicaps are more apt to be present. Considering the greater cost of educating such children, it would be ironical, indeed, if concern over equal protection were to have the effect of forcing some central cities with a high proportion of blacks and other disadvantaged groups to lower their per pupil expenditures to suburban levels.

In the majority opinion of the U. S. Supreme Court it was noted:

> The complexity of these problems is demonstrated by the lack of consensus with respect to whether it may be said with any assurance that the poor, the racial minorities, or the children in overburdened core-city school districts would be benefited by abrogation of traditional modes of financing education. Unless there is to be a substantial increase in state expenditures on education across

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[1] See Seymour Sacks, City Schools/Suburban Schools: A History of Fiscal Conflict. Syracuse University Press, 1972 and subsequent statistical analysis for the ACIR.

> the board - an event the likelihood of which is open to considerable question - these groups stand to realize gains in terms of increased per pupil expenditures only if they reside in districts that presently spend at relatively low levels, i.e., in those districts that would benefit from the redistribution of existing resources. Yet recent studies have indicated that the poorest families are not invariably clustered in the most impecunious school districts. . . .
>
> Several research projects have concluded that any financing alternative designed to achieve a greater equality of expenditures is likely to lead to higher taxation and lower educational expenditures in the major urban centers, a result that would exacerbate rather than ameliorate existing conditions in those areas.
>
> These practical considerations of course, play no role in the adjudication of the constitutional issues presented here. But they serve to highlight the wisdom of the traditional limitations on this Court's function. The consideration and initiation of fundamental reforms with respect to state taxation and education are matters reserved for the legislative processes of the various states, and we do no violence to the values of federalism and separation of powers by staying our hand.

It should be emphasized that full funding of education by the state is only one of several ways to achieve equalization. In his dissenting opinion, Justice Marshall notes:

> The District Court struck down nothing more than the continued interdistrict wealth discrimination inherent in the present property tax. Both centralized and decentralized plans for educational funding not involving such interdistrict discrimination have been put forward. The choice among these or other alternatives remains with the State.

In the New Jersey case, Justice Botter noted, "Nothing herin shall be construed as requiring the Legislature to adopt a specific system of financing or taxation. The Legislature may approach the goal required by the education clause by any methods reasonably calculated to accomplish that purpose consistent with the equal protection requirements of law."

Power Equalization

Power equalization, in its purest and most general form, can be described by the following equation:[1]

$$DAR = 1.0 - kWL/WS \qquad (1)$$

Where: DAR = a local school district's state aid ratio or the proportion of its expenditure that will be financed by the state.

WL = the district's taxable wealth per weighted pupil.

WS = the average wealth per weighted pupil for the state as a whole.

k = a local cost share factor or the share of aidable expenditure that must be born by local taxpayers in a district where local wealth per pupil equals the average wealth per pupil for the state as a whole.

Under this system each school district would receive a fixed amount of revenue per pupil for any particular level of tax effort regardless of the amount of local property per pupil. To provide the reader with a better understanding of this concept let us assume that a state has adopted power equalization and that it desires to share about half of the cost of providing elementary and secondary education. This objective can be furthered, to a first approximation, by setting the local cost share factor, k, in equation (1) equal to .5.

$$DAR = 1.0 - .5WL/WS \qquad (2)$$

---

[1] There doesn't appear to be a clear recognition in the school finance literature that "district power equalization," in its purest and most general form, is essentially identical to the "percentage equalization formula" that is partially used in some states to distribute aid. Hickrod and his colleagues at Illinois State University who have written one of the better, more recent and most comprehensive discussions of the "Definition, Measurement, and Application of the Concept of Equalization in School Finance," for the U. S. Office of Education treat the two concepts as being separate and distinct. This is unfortunate since it tends to cause the profession to focus its attention on puristic solutions to the problem of educational inequality when a combination of alternatives might be less costly and more feasible in some states.

Suppose a school district has no taxable wealth of its own. The state aid ratio would then equal 1.0, or 100 per cent of total expenditure. If local wealth is only half as large as the average wealth per pupil for the state as a whole, the district aid ratio will equal (1.0 - .5 x ½ = .75) or 75 per cent. A district with per pupil wealth equal to the state average will have an aid ratio of .5 while a district with a per pupil tax base twice as large as the state average will have an aid ratio of .0 and receive no state aid.

Suppose that a school district has a tax base per pupil that is three times as great as the state average. Its aid ratio will equal (1.0 - .5 x 3 = -.5). The implication is that this district should tax itself at a rate equal to 1.50 times its own expenditure and turn the unexpended balance over to the state. If this requirement is satisfied, all school districts will be able to spend the same amount for a given tax rate.

To further illustrate this point, let us assume that all districts desire to spend $1,000 per pupil and that the average wealth for the state as a whole is $25,000 per pupil. A district with an amount of wealth per pupil equal to the state average will receive $500 in state aid and tax itself at a rate of (500/25,000 = .02) or at a two per cent rate. A district with per pupil wealth equal to twice the state average will not receive any state aid and will tax itself at a rate of (1,000/50,000) which is also equal to two per cent. A district with per pupil wealth equal to three times the state average will be required to finance its own expenditure and also pay a tax (or negative aid ratio) to the state equal to $500 per pupil. If this is done, the local tax rate will equal (1,500/75,000) or two per cent.

The conventional equalization model for state school aid which provides to each school district an amount sometimes known as a "foundation program," which is a specified number of dollars per pupil, times the number of pupil units, less a rate on local property valuation, can be considered a special case of power equalization. It differs from the general case in that school districts are usually required to tax their property at a specified minimum rate to receive aid but are not required to pay taxes to the state if their implicit direct aid ratio is negative. Cost sharing by the state, moreover, is generally limited to the foundation amount.

In the last decade or so a number of states such as New York, Wisconsin, Rhode Island and Pennsylvania, have moved away from the concept of a "foundation program" to aid formulas which are basically power equalizing and of the form suggested by equation (1). None of these states, however, has required wealthy school districts with negative direct aid ratios to pay taxes to the state. This can result in unequal tax burdens.

Consider our previous example. If the school district with per pupil wealth equal to three times the state average does not pay $500 to the state, its local tax rate will equal (1,000/75,000 = .0133) or 1 and 1/3 per cent compared to a local tax rate of 2 per cent for the school districts with aid ratios that are either positive or zero. Some of the most glaring inequities in existing modes of financing elementary and secondary education are related to the fact that school districts with aid ratios that are either explicitly or implicitly negative do not pay taxes to the state.

The Range of Fiscal Alternatives

In his dissenting opinion with regard to the Rodriguez Case, U. S. Supreme Court Justice Thurgood Marshall has noted that there are at least four ways in which the interdistrict wealth discrimination inherent in the present property tax system of financing education could be eliminated. Centralized educational financing is one method.

> A second possibility is the much discussed theory of district power equalization put forth by Professors Coons, Clune, and Sugarman in their seminal work "Private Wealth and Public Education." . . .
>
> District wealth reapportionment is yet another alternative which would accomplish directly essentially what district power equalization would seek to do artificially. . . .

> A fourth possibility would be to remove commercial, industrial, and mineral property from local tax rolls, to tax this property on a state-wide basis, and to return the resulting revenues to the local districts in a fashion that would compensate for remaining variations in the local tax bases. . . .
>
> None of these particular alternatives are necessarily constitutionally compelled; rather they indicate the breadth of choice which remains to the State if the present interdistrict disparities were eliminated.

In New York State the wealthiest school district has a little over five and one half times as much wealth as the average school district. By lowering the local cost share factor in its basic aid formula from .51 to about .13 New York could promote equalization without resort to district reorganization or the imposition of special taxes on property within wealthy school districts. This would be an expensive alternative, however, since the state would have to increase its share of local school expenditures from a present share of 41.8 per cent to about 82 per cent, on the average.

It seems probable, however, that the variation in per pupil wealth may not be as great in states with fewer school districts and that some states with low wealth variability or a higher level of state support might be able to "save" money by moving to a more equalized system of school financing. In 1969-70, for example, there were three states which provided more than 70 per cent of the financing for elementary and secondary education and a total of 12 states which shared over half of the expense of providing public education. Several states have fewer than 50 school districts compared to over 700 school districts for the State of New York.

In 1942 there were 103,579 school districts in the United States. By 1957 this figure had been reduced to 50,446 districts and by 1967 had slumped to 21,782 districts. In 1972 there were only 15,780 school districts in the entire United States. The latter figure is substantially less than the 18,516 municipalities in existence at that time.

One of the simplest methods of achieving greater equalization without a large increase in state expenditures would be to require wealthy school districts to merge with adjacent districts that are less affluent. In New York State there are only 30 school districts out of a total of approximately 750 school districts with negative (zero) aid ratios. Many of these school districts are quite small, have relatively few students, and could reasonably expect to support a richer and more varied curriculum as a result of district consolidation.

Since many State Departments of Education have been given the authority to either encourage or impel local school districts to consolidate, it may be possible in some instances to greatly improve the equality of educational opportunity by administrative actions. If a state's aid formula is basically "power equalizing" and if the state is willing to finance half the cost of elementary and secondary education, only those districts with twice the average wealth per pupil for the state as a whole will need to merge with less affluent districts to eliminate districts with negative aid ratios and achieve perfect equalization, without resort to the imposition of special taxes on the porperty of wealthy districts. If the state is only willing to finance one-third of the cost of elementary and secondary education, all districts with one and a half times as much wealth as the average district would be merger candidates.

In his dissenting opinion, Justice Marshall suggests that it might be possible to achieve equalization by removing commercial, industrial, and mineral property from local tax rolls, have the state tax this property on a state-wide basis, and return the resulting revenues to the local districts in a fashion that would compensate for remaining variations in the local tax bases. While commercial, industrial, and mineral property does seem to be distributed in a rather unequal fashion, it is doubtful whether this alternative, by itself, would be sufficient to insure perfect equalization in most states. Many of the more affluent school districts in New York and other states are confined to exclusive neighborhoods that are composed primarily of very wealthy estates. To be sure that the residents of these school districts pay a fair share of the cost of providing public education, most states would probably have to tax other kinds of property besides commercial, industrial and mineral property.

One solution to this problem would be for the state to adopt a power equalizing aid formula and require districts with negative aid ratios to raise the implied sum and turn the unexpended balance over to the state. The problem with power equalization in its purest form is that the residents of some wealthy districts would have an economic incentive to send their children to private schools and only support public education in a minimum sort of way, if at all. The wealthiest school district in New York, for instance, has an implied negative aid ratio equal to -1.87. If power equalization were fully in effect, this district would have to pay to the state about 65 cents of every dollar raised in support of local education. A system of private schools with partial or complete tuition waivers for children from less affluent families would probably be much cheaper for the residents of most wealthy districts than a public school system, if the private system enabled them to avoid school taxes altogether.

While power equalization, in its most general and purest form, might lead to a deterioration in both the amount and quality of public education provided in some school districts, there is a possibility that this defect could be overcome in a manner that is reasonably consistent with the equalization objective by simply requiring all school districts to tax their property at a minimum, state imposed rate that is about equal to the average school tax rate for the state as a whole. Proceeds which are either above a "foundation level of school support" or above the state average expenditure per pupil would be returned to the state.

This method of grappling with the problem of school districts with negative aid ratios has an advantage of providing a strong fiscal incentive for maintaining public schools. Those districts with relatively few children enrolled in public schools would still have to pay a minimum school tax regardless of the number of students enrolled in public schools. For each child enrolled in non-public schools, the district would, in effect, be losing a financial sum equal to the foundation level of support for that child; this, of course, could be a rather substantial sum if the foundation level of support equalled the average expenditure per pupil for the state as a whole, which in New York State now amounts to about $1,300 per weighted pupil.

The idea of a minimum, state imposed school tax rate is not new. In the State of Utah local school districts whose mandated millage returns more than the amount necessary for the basic foundation program are required to give the excess to the state to be distributed to poorer districts.

The range of basic alternatives that are available to states and the many combinations of aid levels, school district reorganization, and minimum taxation that might be employed to achieve equalization strongly suggests that most states could do a better job of promoting equality without sizable increases in state budgets, massive reorganization of local school districts or a major abrogation of existing systems of financing public education.

Issues to be Addressed in Future Court Decisions

The present aid law in the State of New Jersey has an objective of establishing a basic foundation program of $400 per pupil when fully funded. In partially upholding Judge Botter's decision, the State Supreme Court of New Jersey has held:

> We see no basis for a finding that the 1970 act even if fully funded, satsified constitutional obligations of the State. . . .
>
> The State must define in some discernable way educational obligations and must compel local school districts to raise the money necessary to provide that opportunity. . . .
>
> It is doubted that a thorough and efficient system of schools required by the 1875 amendment can realistically be met by reliance on local taxation. . . .
>
> Although we have dealt with the constitutional problem in terms of dollar input per pupil, it should not be understood to mean that the State may not recognize differences in area costs, or a need for additional dollar input to equip classes of disadvantaged children for the education opportunities. Nor do we say that if the State assumes the cost of providing the constitutionally mandated education it may not authorize local governments to go further and to tax to that further end, provided that such authorization does not become a device for diluting the State's mandated responsibility.

From the foregoing discussion it is clear that one of the key questions yet to be resolved in the controversy concerning equality of educational opportunity is the question, what is an adequate level of school financing. The old fashioned answer to this question is that the state should either provide or insure a level of support that can be considered minimumly adequate. Writing in the late 1950's Paul Mort defined equality of opportunity as follows:

> Equality of educational opportunity is a principle that is fundamental in American education - a principle based upon the assumption that our democracy is best served by extending to all children an equal minimum opportunity to attend schools adequate for the achievement of self-realization, economic efficiency, civil efficiency and efficiency in human relationships.
>
> Equality of educational opportunity means not an identical education for all children, but the provision by state and local means of at least certain minimum essentials of financial support. The acceptance of education as a function of the state and the insistence that, in the main, certain minimum educational standards are the concern of all the people in the state rather than that of certain minorities make it incumbent upon the state to provide the machinery through which the principle may be effectively realized. The classical statement of the implications of the principle of equality of educational opportunity, as given by the Educational Finance Inquiry Commission in 1923, recognized the obligation of the state to require at least minimum schooling for all the children, to place the support of this minimum schooling squarely on the resources of the state, and to make supervision an important element in the state's program.[1]

The motivation and thrust of recent court cases would appear to go beyond the objective of "minimum adequacy," however. In his dissenting opinion in the Rodriguez Case, Associate Justice Marshall noted:

> Authorities concerned with educational quality no doubt disagree as to the significance of variations in per pupil spending. Indeed, conflicting expert testimony was presented to the District Court in this case concerning the effect of spending variations on educational achievement. We sit, however, not to resolve disputes over educational theory but to enforce our Constitution. It is an inescapable fact that if one district has more funds available per pupil than another district, the former will have greater choice in educational planning than will the latter. In this regard, I believe the question of discrimination in educational quality must be an objective one that looks to what the state provides its children not to what the children are able to do with what they receive. . . .

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1. P. R. Mort, W. C. Reusser, and J. W. Polley. Public School Finance. McGraw Hill, 1960.

> This Court has never suggested that because some "adequate" level of benefits is provided to all, discrimination in the provision of services is therefore constitutionally excusable. The equal protection clause is not addressed to the minimal sufficiency but rather to the unjustifiable inequalities of state action. It mandates nothing less than that "all persons similarly circumstanced shall be treated alike."
>
> Even if the equal protection clause encompassed some theory of constitutional adequacy, discrimination in the provision of educational opportunity would certainly be a poor candidate for its application. Neither the majority nor appellants informs us how judicially manageable standards are to be derived for determining how much education is "enough" to excuse constitutional discrimination. . . .
>
> Indeed, the majority's apparent reliance upon the adequacy of the educational opportunity assured by the Texas Minimum Foundation School Program seems fundamentally inconsistent with its own recognition that educational authorities are unable to agree upon what makes for educational quality.
>
> If, as the majority stresses, such authorities are uncertain as to the impact of various levels of funding on educational quality, I fail to see where it finds the expertise to devine that the particular levels of funding provided by the program assure an adequate educational opportunity much less an education substantially equivalent in quality to that which a higher level of funding might provide. . . .
>
> In my view, then, it is inequality - not some notion of gross inadequacy - of educational opportunity that raises a question of denial of equal protection of the laws. I find any other approach to the issue unintelligible and without directing principle. Here appellees have made a substantial showing of wide variations in educational funding and the resulting educational opportunity afforded to the school children of Texas. This discrimination is, in large measure, attributable to significant disparities in the taxable wealth of local Texas school districts. This is a sufficient showing to raise a substantial question of discriminatory state action in violation of the equal protection clause.

If Marshall's view is accepted, states should adopt aid formulas and/or compensating systems for redistributing local property taxes which are basically power equalizing, at least up to a level of expenditure which is approximately equal to the average expenditure per "weighted pupil" for the state as a whole. Power equalization need not preclude the possibility of "extra weight" for some classes of pupils if it can be shown that it is more costly to provide equal educational opportunity for high school students, children in sparsely populated school districts, children with mental or physical handicaps,[1] and children that in other ways may be more difficult and costly to educate.

There is some doubt, however, as to whether power equalization should be carried to the point where it provides aid and encouragement for "above average" expenditures that are not related to the increased cost of educating particular groups since that might have the paradoxical effect of helping to promote inequality of educational opportunity by making it easier for middle income school districts that value education highly to spend a great deal of money on their school systems. Many surburban communities with residents that are primarily college graduates have relatively little property per pupil but may enjoy per capita incomes which are far higher than the incomes of persons in rural school districts with considerable amounts of undeveloped land. If that is the case a high tax rate might not be nearly so burdensome for them as for rural school districts.

It should also be emphasized that a large amount of taxable property does not necessarily connote a willingness to spend more on education:

> James H. Frenck, writing in "Central Ideas," a monthly publication of the Central School Boards Committee for Educational Research of the New York State School Boards Association, Inc., describes a study which attempted to simulate what might occur if financing equalizing became a reality and school districts, possessed, in effect, equal financial resources.

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[1] Courts in Pennsylvania, Michigan and the District of Columbia have ruled that states have an obligation to provide public education for handicapped and emotionally disturbed children even if the cost per pupil is more. In the last year, 22 cases in 16 states were filed or completed on the right to education for handicapped children. In at least four more states, cases are being prepared. See, Albert L. Kraus, "Public Education for Handicapped Seen Threatening to Erode State-Local Surplus," The Daily Bond Buyer, January 29, 1973, pp. 1 and 13.

> The study took data over a five year period and attempted to determine whether poor school districts in New York State experiencing a sizable increase in wealth in the form of a rise in the value of their taxable property would employ the additional resources to increase the level of spending for educational services. . . .
>
> "The data from the sample show that (poor school districts) are holding their own. The mean percentage of increase in approved operating expenditures for the 25-district sample is 42.45, while the mean percentage of increase for all major school districts is 43.72. . . .
>
> "This study clearly refutes the assumption that a sizable increase in a poor school district's ability to spend will directly result in higher per pupil expenditures and an improved educational program."[1]

The unwillingness of some property rich districts to spend money on education is no doubt one of the reasons why 46 of the 50 states have defined a minimum program which local school districts must provide. It is also a reason for suggesting that power equalization should not be regarded as an end in itself but as a means for encouraging poorer school districts to raise their expenditure level closer to the state average. To insure that this is the case it might be necessary to stipulate that poor school districts which receive a large amount of additional state aid should not be allowed to cut local taxes unless their expenditures are equal to, say, not less than ten per cent of the median expenditure per pupil for all school districts in the state. Power equalization, where educational costs are presumed to be the same, would then be contributing to the higher order objective of expenditure equalization.

In the majority opinion which was rendered by the U. S. Supreme Court in the Rodriguez Case it was noted, "This is not the place to weigh the arguments for and against 'district power equalizing,' beyond noting that commentators are in disagreement as to whether it is feasible, how it would work, and indeed whether it would violate the equal protection theory underlying appellees' case."

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[1] John J. Winders, "Would Poor School Districts Spend More if Funds Were Made Available?" The Daily Bond Buyer, May 12, 1972, pp. 1 and 24.

While there is uncertainty as to whether the courts will ever endorse the concept of power equalization in its purest form, it does have the advantage of providing an objective standard with which to appraise features of existing aid laws which are highly suspect as being discriminatory and not promoting equality of educational opportunity. In the near future the New Jersey Supreme Court will hear arguments as to whether moneys appropriated by the Legislature to provide "minimum support aid" to all school districts and to "save harmless" aid which was received prior to the 1970 act, should not be distributed to school districts on terms other than the legislated ones.[1] Other features of existing aid laws are equally suspect.[2] A study by the New York Education Department has concluded that:

> Successive amendments and revisions of the Diefendorf Formula related to the size correction have seriously compromised the basic concept of this equalized, cost-sharing program. . . .
>
> The size correction in the formula for the distribution of operating expenses aid has little relationship to cost differentials in school districts in New York State, arising out of local social and economic conditions, except possibly in the very largest districts.[3]

Suppose that the courts in one or more states were to decide that aid distributed in the form of "flat grant" aid to all districts, regardless of local wealth, is not sufficiently equalizing unless it is sufficient to cover the full cost of the state's basic foundation program. Let us further assume that the courts will require the state legislature and/or the state education department to redistribute lesser amounts of aid in a manner that is more nearly consistent with power equalization. What would be the consequences?

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[1] This would suggest that future court decisions may be much more concerned with the nitty, gritty specifics of how aid is distributed than with the grand and glorious issues as to whether education is a fundamental human right and whether the over-all system of state support for education can be considered constitutional.

[2] One feature of the New York law which appears to be highly discriminatory is a constraint which restricts the amount of state aid to not more than 90 per cent of approved operating expenditures. Only a very few school districts are affected by this constraint, but they happen to be the poorest in the state.

[3] "A Summary Report on An Analysis of New York State School Aid Correction," The University of the State of New York, The State Education Department, December, 1966, p. 47.

A loss of flat grant aid would force many school districts to increase property taxes and in some cases by fairly substantial amounts. In several states, where the burden on local property is now considered excessive or is unfairly administrated, this might be sufficient to precipitate a financial crisis which would lead the legislature to raise other taxes in order to fund most of the state's basic foundation program. Hickrod and his colleagues at Illinois State University have noted that a "rapid shift to more state aid may be caused, not by any great desire to achieve equal educational opportunity, whether court mandated or not, but by the desire of much of the electorate to move some of the tax burden from the local property tax to the state sales tax and the state income tax. The judicial demand for equal educational opportunity may simply provide the escape valve for a property tax pressure that has been building up for some time."[1]

Farmers, homeowners, older persons and businessmen that have accumulated significant amounts of real property are politically important groups that might reasonably expect to benefit from a major shift of school financing from local property taxes to sales and income taxes.

If several of our more industrialized states were to assume most of the responsibility for financing education, either as a result of court decisions or as a result of the unpopularity of local property taxes, that might be sufficient to force all industrial states that wished to remain competitive to do the same. For there has already been a rather marked shift of industrial activity in the post World War II period from the Northeast and Midwest, where schools are financed to a large extent from local property taxes, to the South, where much of the financing for public education is from state sources and local school taxes are relatively small.

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[1] G. Alan Hickrod and others, "Definition, Measurement, and Application of the Concept of Equalization in School Finance," U. S. Office of Education, EA 004 112, Ed 060544.

With much of our industry quite mobile and facing increasing competition from abroad, an economic climate may have been created in which the decision of the New Jersey Supreme Court might be a sufficient catalyst to bring about a much broader revolution in school finance comparable to the changes which the U. S. Supreme Court refused to impose in the Rodriguez Case. This, in any event, is an aspect of the concern for equality of educational opportunity which our Municipal Finance Study Group at SUNYA is now in the process of examining.

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FRANK B. WARNOCK, PH.D.
SUPERINTENDENT

May 14, 1973

Honorable James O. Eastland
United States Senate
Washington, D. C.

Dear Senator Eastland:

Our school district is operating under a Federal court mandate, and the financial dilemma we face as a result of reduction in funds to operate essential instructional services is serious and staggering. I earnestly appeal to your sense of justice and fair play to restore and stabilize Federal funds that Mississippi schools have been receiving since 1965. I solicit your interest and active support in getting involved in writing a continuing resolution to help us make the transition under new legislation which will be passed after July 1, 1973. In the resolution, please incorporate the following components:

1. Set poverty level at $4,000 per family.
2. The Title I allocation should provide $300 per eligible child to be distributed first before other programs are funded.
3. The resolution should provide that no state should receive less than it received under the 1972 appropriation which is the level of funding for 1973 under the continuing resolution.
4. The resolution should be sure to provide for (1) impacted aid funds, (2) Title I ESEA as outlined above, (3) ESEA Title V, parts A and C, at same level as 1972, and (4) vocational education funds at level of 1972 at least, but an increase if at all possible.

The great concern now is to initiate immediate action on a continuing resolution as a stopgap and emergency measure. It is assumed that, after this is done, a compromise bill will be worked out on putting together the best elements of the Quie Bill, the Better School Acts of 1973 and Perkins Bill H. R. #69. At the moment, we need emergency action to extend ESEA to give time to work out these other problems. It is not an understatement to say that school finance is the greatest problem school superintendents in this area face in planning for the 1973-74 school session.

I thank you for any assistance that you can provide.

Sincerely yours,

Frank B. Warnock
Superintendent

FBW:gdm

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June 15, 1973

Senator Claiborne Pell
Senate Office Building
Room 325
Washington, D.C.

Dear Senator Pell:

It is a pleasure to expand my views on Title I and III of the ESEA for you. What follows are first, broad overall concerns and then, more specific concerns with Titles I and III ESEA.

Basically the fact that both programs deal specifically with written objectives and evaluation insures proper utilization of funds. Categorical aid with its built in safeguards prevents monies from being utilized in all but the appropriate area. This then points to a distinct advantage over general aid where money is spread, thereby decreasing any observable effect on programs. Additionally with specific proposals written and needing approval insures that programs are thought out and planned rather than being operated intuitively.

Relative to the Quie bill mentioned in my first letter (May 24, 1973) my major concern would be that it would dictate the specific programs (reading and arithmetic) in all but large school districts. Using Rhode Island as an example this is what could happen based on current spending levels: West Warwick's ratably reduced grant under Title I for FY 1973 was $69,631. Twenty-nine communities had less. The non directed 15% for West Warwick would mean $10,444. This is not enough to hire one professional who has significant experience and an advanced degree. About seventy-five per cent of Rhode Island's school districts would be in this same position relative to "other" programs.

As previously stated in my first letter the concept of getting the money to where it is needed is fine. The where, however, should include areas of deprivation as well as localities. The problem of stating the areas are two (ie. reading and arithmetic) implies a degree of import to the two areas. I do not quibble with their importance, but issue is taken with areas that could lose visibility due to the identification of them as need areas. What seems to happen in education is that individuals concentrate concerns on specific areas so that descriptions of educational needs take the form of the blind men from India describing the elephant. Education must be involved with the total individual (educators have "talked" this line for some years). When an area of concern has visibility through funding and clearly defined goals it is less likely to be ignored by an LEA or state department. The school's concern for mental health has been a victim of this in too many communities. It is fairly evident that all the cognitive skills in the world without mental health produces a "cripple". This area as well as others could be lost with the thrust of the Quie Bill unless other programs were developed.

A way of summing this portion would be to state that my major concern is that educational problems and federal involvement should keep educational goals in perspective.

What now follows are specific views on Title I and III ESEA. Most of what is contained here is due to personal experiences within the state of Rhode Island and reading.

Title I ESEA

1. Before we can really get started meeting the needs of educationally disadvantaged children full funding is necessary.
2. Success with Title I programs have been proven (at least in Rhode Island). We should now be concerned about all disadvantaged rather than with the selection of "target area" schools. Needed is legislation with a workable definition of the educationally disadvantaged child, then with full funding, servicing them regardless of his school. To me, the current process seems to discriminate against those who are not in target area schools.
3. It would make sense if an LEA knew one year in advance what their appropriation would be. Quality of programs could then be enhanced with additional planning.
4. Related to item #3 would be incorporating three year grants into legislation, the additional benefit would be the ease for building in longitudinal studies.

Title III ESEA

Basically the concept of the act is fine. There is need and room for such a program in education. My major concern here is that when Title V NDEA phased out supposedly counseling and guidance services received a piece of the "pie". What has happened does not bear this out. First, there has been a disappearance of state supervisory people in this area. Secondly, there has been, from my point of view, a decrease in federal funding to assist in improving services in this area.

What has happened to counseling and guidance services might be due to the loss of visibility within the act. If these services were to stay within the Title III umbrella some effort should be made to increase "visibility" not only in terms of LEA programs but also relative to state department leadership positions.

My concern is partly a vested one since this is my specific field. I do however feel that beyond a professional short changing, students in many schools are in the same position due to lack of funds, staff, and leadership on both local and state levels. This effects services they should receive.

In closing I thank you for this opportunity. Best wishes and good health to you. Your performance as a senator has been for me, one which places our state in a happy position where both senators not only are influential but utilize their positions.

Sincerely,

Edward L. Higgins

Edward L. Higgins
Director of Guidance &
School Psychologist

dfm

JOHN C. STENNIS, MISS., CHAIRMAN
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WILLIAM L. SCOTT, VA.
T. EDWARD BRASWELL, JR., CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON ARMED SERVICES
WASHINGTON, D.C. 20510

June 19, 1973

Senator Claiborne Pell, Chairman
Subcommittee on Education
Senate Office Building
Washington, D. C.

Dear Claiborne:

I am writing you, with much concern, relative to the funding of Title I of the Elementary and Secondary Education Act. My concern results from the fact that the ESEA legislation expires on June 30, 1973, and at this point, it appears that the legislation will be continued during 1974 on the basis of an automatic one-year statutory extension.

Under existing legislation, the counts of eligible children would be taken from the 1970 census data as opposed to the 1960 census data. Attached you will find a chart which reflects, for each county in South Carolina: (1) the present funding level of Title I based on 1960 census data; (2) the estimate of 1974 funding under a continuing resolution using 1970 census data; (3) the amount of funding change that would result. A review of this chart will clearly substantiate my concern for the 1974 Title I funding situation for South Carolina. It is my understanding that a number of other states would be similarly affected unless some remedial action is taken.

I submit these facts for your careful consideration, and I urge your support for a bill which would provide South Carolina and other states with a Title I funding level commensurate with that received in previous years. In the alternative, I urge you to support a "protective floor provision", assuring that no state will receive less funds in Fiscal Year 1974 than in Fiscal Year 1973, in any continuation of Title I.

Thank you for your attention to this matter, and with kindest regards and best wishes,

Very truly,

Strom

Strom Thurmond

ST:yo

PRESENT (1973) AND ESTIMATED (1974) E.S.E.A. TITLE I FUNDING LEVELS FOR SOUTH CAROLINA

FIRST CONG. DIST. BY COUNTY	*PRESENT FUNDING LEVEL 1960 CENSUS 1/	*ESTIMATE OF FY 74 FUNDING LEVEL 1970 CENSUS 2/	AMOUNT OF CHANGE
Allendale	268,880.00	109,905.00	-158,975.00
Beaufort	441,581.00	354,580.00	- 87,001.00
Berkeley	682,723.00	643,862.00	- 38,861.00
Charleston	2,067,822.00	1,689,190.00	-378,632.00
Clarendon	866,855.00	440,188.00	-426,667.00
Colleton	596,302.00	247,902.00	-348,400.00
Dorchester	377,463.00	211,837.00	-165,626.00
Hampton	393,911.00	152,234.00	-241,677.00
Jasper	237,239.00	128,697.00	-108,542.00
Total	5,932,776.00	3,978,395.00	-1,954,381.00
SECOND CONG. DIST. BY COUNTY			
Bamberg	347,216.00	108,196.00	-239,020.00
Barnwell	349,446.00	126,609.00	-222,837.00
Calhoun	407,710.00	104,780.00	-302,930.00
Orangeburg	1,391,372.00	711,628.00	-679,744.00
Lexington	386,941.00	270,301.00	-116,640.00
Richland	1,354,295.00	949,469.00	-404,825.00
Total	4,236,980.00	2,270,983.00	-1,965,997.00
THIRD CONG. DIST. BY COUNTY			
Abbeville	230,966.00	79,913.00	-151,053.00
Aiken	787,264.00	399,187.00	-388,077.00
Anderson	697,498.00	235,754.00	-461,744.00
Edgefield	301,915.00	124,521.00	-177,394.00
Greenwood	358,506.00	107,247.00	-251,259.00
McCormick	149,563.00	90,163.00	- 59,400.00
Newberry	347,355.00	92,821.00	-254,534.00
Oconee	327,841.00	130,215.00	-197,626.00
Pickens	205,737.00	105,349.00	-100,388.00
Saluda	208,106.00	54,857.00	-153,249.00
Total	3,614,751.00	1,420,027.00	-2,194,724.00
FOURTH CONG. DIST. BY COUNTY			
Greenville	1,000,667.00	608,746.00	-391,921.00
Laurens	417,328.00	96,807.00	-320,521.00
Spartanburg	1,051,404.00	491,439.00	-559,965.00
Total	2,469,399.00	1,196,992.00	-1,272,407.00
FIFTH CONG. DIST. BY COUNTY			
Cherokee	372,445.00	100,034.00	-272,411.00
Chester	381,923.00	147,868.00	-234,055.00
Chesterfield	707,952.00	197,411.00	-510,541.00
Fairfield	375,651.00	117,497.00	-258,154.00
Kershaw	540,965.00	195,323.00	-345,642.00
Lancaster	299,824.00	137,618.00	-162,206.00
Sumter	1,236,233.00	678,979.00	-557,254.00
Union	292,715.00	113,132.00	-179,583.00
York	640,210.00	254,546.00	-385,664.00
Total	4,847,918.00	1,942,408.00	-2,905,510.00
SIXTH CONG. DIST. BY COUNTY			
Darlington	982,268.00	444,174.00	-538,094.00
Dillon	795,906.00	352,682.00	-443,224.00
Florence	1,485,593.00	683,280.00	-797,318.00
Georgetown	699,310.00	286,625.00	-412,685.00
Horry	1,133,922.00	552,750.00	-581,172.00
Lee	673,802.00	298,773.00	-375,029.00
Marion	743,357.00	253,026.00	-490,331.00
Marlboro	661,954.00	275,616.00	-386,338.00
Williamsburg	1,415,765.00	542,310.00	-873,455.00
Total	8,591,832.00	3,694,236.00	-4,897,646.00
Grand Total	29,693,706.00	14,503,041.00	-15,190,665.00

1/ This column reflects the current funding level of Title I and is based on the 1960 census data.

2/ This column reflects the estimated funding level of Title I if the program operates under a Continuing Resolution in Fiscal Year 1974 and the 1970 census data is used.

* Funding levels are based on an assumed appropriation of $1.5 billion with no protective floor.

FLOYD K. HASKELL
COLORADO

United States Senate
WASHINGTON, D.C. 20510

July 23, 1973

The Honorable Claiborne Pell
Chairman
Subcommittee on Education
Committee on Labor and Public Welfare
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed is a copy of a letter that I have received from Leo Valdez of the Colorado Springs, Colorado, Public Schools. Mr. Valdez is concerned about the legislation affecting the Elementary and Secondary Education Act.

I would appreciate any information that you could give me concerning the future of these bills which would help Mr. Valdez and the school administration.

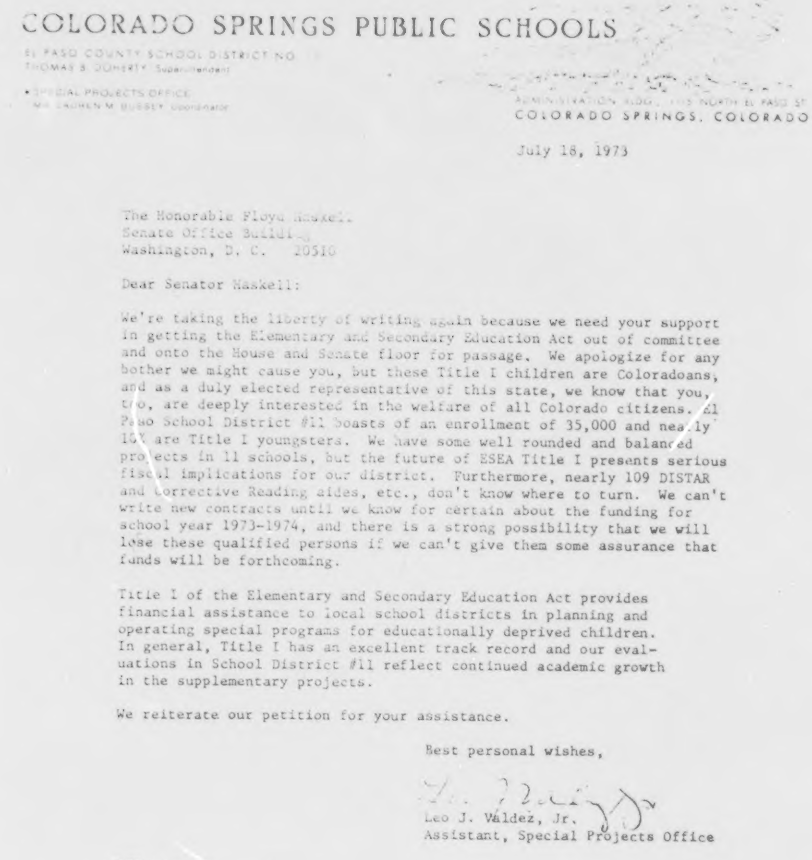
Thank you for your consideration in this matter.

Sincerely,

Floyd K. Haskell
Floyd K. Haskell
United States Senator

FKH/rd

Enclosure



COLORADO SPRINGS PUBLIC SCHOOLS
EL PASO COUNTY SCHOOL DISTRICT NO. 11
THOMAS B. DOHERTY, Superintendent

• SPECIAL PROJECTS OFFICE
MR. LAUREN M. BUSBEY, Coordinator

ADMINISTRATION BLDG., 1115 NORTH EL PASO ST.
COLORADO SPRINGS, COLORADO

July 18, 1973

The Honorable Floyd Haskell
Senate Office Building
Washington, D. C. 20510

Dear Senator Haskell:

We're taking the liberty of writing again because we need your support in getting the Elementary and Secondary Education Act out of committee and onto the House and Senate floor for passage. We apologize for any bother we might cause you, but these Title I children are Coloradoans, and as a duly elected representative of this state, we know that you, too, are deeply interested in the welfare of all Colorado citizens. El Paso School District #11 boasts of an enrollment of 35,000 and nearly 10% are Title I youngsters. We have some well rounded and balanced projects in 11 schools, but the future of ESEA Title I presents serious fiscal implications for our district. Furthermore, nearly 109 DISTAR and Corrective Reading aides, etc., don't know where to turn. We can't write new contracts until we know for certain about the funding for school year 1973-1974, and there is a strong possibility that we will lose these qualified persons if we can't give them some assurance that funds will be forthcoming.

Title I of the Elementary and Secondary Education Act provides financial assistance to local school districts in planning and operating special programs for educationally deprived children. In general, Title I has an excellent track record and our evaluations in School District #11 reflect continued academic growth in the supplementary projects.

We reiterate our petition for your assistance.

Best personal wishes,

Leo J. Valdez, Jr.
Assistant, Special Projects Office

LJV:gw

Senator PELL. The subcommittee will recess until tomorrow.

[Whereupon at 3:07 o'clock p.m., the subcommittee was recessed to reconvene Wednesday, October 10, 1973, at 10 a.m.]

EDUCATION LEGISLATION, 1973

Elementary and Secondary Education Amendments of 1973

WEDNESDAY, OCTOBER 10, 1973

U.S. SENATE,
SUBCOMMITTEE ON EDUCATION
OF THE COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:30 a.m., in room 4232, Dirksen Office Building, Hon. Claiborne Pell, subcommittee chairman [presiding].

Present: Senators Pell, Eagleton, and Stafford.

Senator PELL. The hearing of the Subcommittee on Education will come to order.

Today we will hear representatives of private elementary and secondary education. This hearing is concerned with the question of Federal assistance to elementary and secondary education and will give us the opportunity to learn the views of this most important and growing segment of elementary and secondary education.

While there has been much discussion concerning the closure of private parochial schools. The committee has noted some growth in the general nonsectarian, nonpublic school. It is my hope that today's witnesses will discuss not only their views on what they believe the Federal role in nonpublic education should be, but also their experiences under the existing programs.

I see here today friends who participated in a most interesting and informative general discussion on this matter, which the subcommittee held over a year ago.

We will now turn to our first panel representing the Council of American Private Education. Robert L. Lambern, the executive director, Rabbi Aaron Seidman, representing the National Society for Hebrew Day Schools, and Dr. A. H. Senske, representing the Lutheran Church, Missouri Synod, Board of Parish Education.

STATEMENT OF ROBERT L. LAMBORN, EXECUTIVE DIRECTOR, COUNCIL FOR AMERICAN PRIVATE EDUCATION; RABBI AARON SEIDMAN, NATIONAL SOCIETY FOR HEBREW DAY SCHOOLS; DR. A. H. SENSKE, LUTHERAN CHURCH, MISSOURI SYNOD, BOARD OF PARISH EDUCATION; AND RICHARD P. THOMSEN, WASHINGTON REPRESENTATIVE OF THE NATIONAL ASSOCIATION OF INDEPENDENT SCHOOLS, A PANEL, REPRESENTING COUNCIL OF AMERICAN PRIVATE EDUCATION

Mr. LAMBORN. Mr. Chairman and members of the subcommittee, I am Robert L. Lamborn, executive director of the Council for American Private Education. The council has in its membership 10 national private school organizations whose member schools enroll approximately 10 percent of all U.S. elementary and secondary school children—some 12,000 schools educating about 5 million students. The member associations of the council are: American Lutheran Church, Division of Parish Education; Friends Council on Education; Lutheran Church, Missouri Synod, Board of Parish Education; National Association of Christian Schools; National Association of Episcopal Schools; National Association of Independent Schools; National Catholic Educational Association; National Society for Hebrew Day Schools; National Union of Christian Schools; and the U.S. Catholic Conference.

Membership in the council is open only to national organizations representing, serving, or operating nonprofit schools which subscribe to a nondiscriminatory admissions policy.

My statement will be followed by those of two representatives of organizations which are members of the council: Rabbi Aaron Seidman, representing the National Society for Hebrew Day Schools; and Dr. Al H. Senske, secretary of elementary and secondary schools, board of parish education, Lutheran Church, Missouri Synod. Mr. Richard P. Thomsen, Washington representative of the National Association of Independent School, also is present. He, as well as those of the council's representatives who are making presentations, will be pleased to respond to questions which you may have following those presentations. We request the opportunity to present a more detailed statement later if this seems appropriate.

The Council for American Private Education is firmly committed to the full and efficient utilization of all of the existing and potential educational resources of the Nation—public and private, professional and corporate, church and lay associational and individual—in the support of excellence in both public and private education. It is similarly committed to efforts to assure excellence in the educational provisions made for all Americans and to a broader participation by private schools in the Nation's educational tasks.

In our judgment, the purposes of the Elementary and Secondary Education Act and ours are consonant, and we are pleased that this is so. We welcome the opportunity to discuss this legislation with you, indicating what we see as its strengths and suggesting steps which might be taken for its improvement.

TITLE I

The provision of special assistance for the educationally disadvantaged is, in our judgment, a major social need and we are encouraged by field reports concerning the effect of title I funds on the educational experiences of children in our schools once these funds are put to work in educational programs for these children. We urge continued and increased support for this title, which holds significant potential for benefiting students in private schools.

We regret that in some instances the implementation of title I as it relates to eligible students in private schools appears to us to be less than equitable. The purposes of the title would be advanced by any action which the subcommittee could take to see that in the future the provisions of the act are administered in an equitable way in accord with the clear intent of the legislation. We are impressed, particularly, by the importance of sound "bypass" provisions and commend such provisions to your consideration in connection with this title.

TITLE II

A good library is, as this title in effect affirms, an essential resource in a good school. Almost without exception, reports from our schools indicate that their children have benefited significantly from the improved library provisions made possible by this title. We urge continuing and generous support of this program, which has had a clear and evident impact on the educational resources of many of our schools.

TITLE III

American education faces problems which call for imaginative new approaches, as the thrust of this title indicates. It is our experience that it is easier to understand that this is so than to establish a program which provides conditions under which such innovative and creative processes do in fact take place and to insure that all segments of the educational community have an opportunity to participate equitably in such a program once it is established.

Certainly this appears to be the case in the implementation of the provisions of this title. If its purposes are to be served in a way which enlists the creative talents of the private segment of American education, if the private segment is to participate in any significant way in such innovative undertakings, administrative approaches to the implementation of the title must be more positive as regards the role of private school people than they have been in some areas in the past.

TITLE V

Members of the council applaud the provision of funds which enable State departments of education to improve their services, especially when as an apparent result there is an improvement in the services provided private education. We are aware of and encouraged by the appointment in many States—under whatever title—of coordinators of services for private, or nonpublic, schools. We are particularly pleased when the persons named to such offices are:

(1) Knowledgeable in the field of private education;

(2) Reasonably sympathetic to the purposes and needs of private school children;

(3) Given this assignment as their primary responsibility; and

(4) Granted a staff position on the policy level.

We urge the subcommittee to exert its influence so that increasingly persons so qualified are appointed to positions of such significance.

In the same vein, but digressing to the Federal level, we urge the subcommittee to work for the creation of a similar post in the office of the Assistant Secretary for Education. When it is recognized that some 10 percent of all elementary and secondary school children in the country attend schools operated under private auspices, such a proposal appears to have considerable justification.

We are appreciative of the attention to the needs of private schools which led to the creation of the position of Coordinator for Nonpublic Educational Services in the U.S. Office of Education, and we are grateful for the Coordinator's substantial efforts to be of assistance to private education—still we believe that consideration might well be given to our present recommendation.

Continuing this digression on the Federal level, we wish to express to the subcommittee our concern over the inadequacy of present procedures for gathering national data on private education. Public school statistics are gathered annually; private school statistics, by practice rather than by policy, are gathered every 5 years.

This provision for data collection is, we feel, inadequate. We recognize that the matter is under consideration as part of the "Common Core of Data for the Seventies" project—our council has suggested, in fact, that private education be responsible for gathering data on private education under grant from the Office of Education—but to our knowledge no decision has been reached on this subject. We urge the subcommittee's attention to provisions for an adequate system for collecting national data on private education.

TITLE VII

There is a real and pressing need for special educational services for the country's low-income bilungual students. There are significant numbers of such students in private schools, but very few benefit under the provisions of title VII. The reported experience of private schools in this regard indicates that in many cases the provisions of the title with regard to private school participation are being disregarded in practice.

We urge the subcommittee to take such action as it feels wise to see that in the future the provisions of the act are administered in an equitable way.

We thank you, Mr. Chairman, for the opportunity to discuss these matters with the members of the subcommittee. After statements by Rabbi Seidman and Mr. Senske, they, Mr. Thomsen, and I will welcome questions.

Senator PELL. Thank you very much. Rabbi Seidman?

Rabbi SEIDMAN. Mr. Chairman, members of the Senate: The privilege and responsibility of extending the views of citizens of this country to its highest legislative councils is highly esteemed by Torah Umesorah and is herewith presented.

I am Rabbi Aaron Seidman, speaking on behalf of Torah Umesorah, the National Society for Hebrew Day Schools.

Our organization was founded in 1944 to initiate, encourage, and enhance the development of Hebrew day schools in America. At present there are 413 Hebrew day schools in the United States. 276 of these are on the elementary level, and 137 are secondary schools.

These educational institutions are located in 160 cities and 34 States, in the disturibution curve parallel to that of Jewish population density.

The total student enrollment of these schools is over 81,000. Torah Umesorah, the Hebrew for learning and tradition, was directly instrumental in founding approximately 300 of these schools. We continue to serve them on an ongoing basis.

However, our facilities and services are available and used by all the schools in the movement. These services include supplying administrative and teaching personnel, supervisory services, curricula programing, text books, loans, grants, educational aids, and literature.

In addition, the five teacher training institutes in New York, Chicago, Boston, Baltimore, and Cleveland, as well as the Association of Hebrew Day School Principals, and the National Association of Hebrew Day School Parent-Teacher Associations that we sponsor serve the entire spectrum of the Hebrew day school movement.

Our national body is acknowledged to be the representative agency of the Hebrew day school movement in America.

By way of general definition, the Hebrew day school provides intensive and extensive instruction in secular general education areas and in adding depth to religious education. It seeks to accomplish both goals effectively and exactingly.

It communicates to its pupils a wide knowledge and fervent love of their American heritage, a deep sense of civic responsibility and an enduring commitment to high standards for academic performance in the sciences and the humanities.

This is enhanced by a high regard for the ethical norm and the principles as well as the precepts of the Jewish religious tradition. In essence, the Hebrew day school is dedicated to synthesis of values of Judaim and the best of American culture. Truly, a life style of genuine cultural diversity.

Let me explain, that while almost the entire movement is united on basic principles, Hebrew day schools are most properly classified as private schools, since they function individually and autonomously. Their funding is also autonomous. They are maintained in part by payment of tuition fees by the parents or pupils and in part by voluntary contributions.

On the average, approximately 40 percent of the day school budgets are covered by tuition. The tuition rates are in the vicinity of $350 to $600 per year per student. This, however, does not operate in the larger metropolitan communities where the majority of these schools are found. Very substantial percentage of parents have very limited economic earnings, and this makes them dependent on tuition grants.

When they seek the traditional religious education for their children in a day school, they can only find it in areas where they can get an intensive educational experience and they must be assisted financially.

Day school parents consider both day school religious instruction and the quality of secular education equally as vital for their children. This places the economically underprivileged among them before the agonizing choice of either failing to provide adequately for the religious education of their children or being forced into desperate financial straits when they seek to send their children to Hebrew day schools. Further, the standards of the day schools are themselves jeopardized by the inability to meet the continuous rise in budgetary requirements imposed by the constantly increasing expenses endemic in our current economic situation.

This confluence of obvious need for adequate funding of educational programs and the equally obvious rising curve of expenditures leads us to the following conclusion.

One, there can be no doubt to the pressing need or the full funding of the Elementary and Secondary Education Act.

Two, all provisions of the legislation should encompass all schoolchildren, without discrimination as to nonpublic school children. Further, wherever States prohibit such involvement there should be a bypass provision.

Three, as a matter of overall, principle, there should be clear guidelines from the Office of Education as to what constitutes remedial and therapeutic services.

For example, one local educational district rules out music, library, health, and related services as not being remedial or therapeutic, whereas other districts may accept it. These discrepancies should be obviated by the enactment or establishment of overall guidelines and criteria.

Four, the Office of Education should also posit the concept that adherence to a specific program is not sacrosanct. What is more important is comprehension of the problem involved, even if the solution does not necessarily fall within the classic program outlined. Thus, the disadvantaged in our schools in some neighborhoods of New York, such as Williamsburg and Crown Heights where we find many families in need of funds, we have poor families, not only from a financial standpoint but also from the standpoint of preparation for living or adjusting to the world.

This, too, is a remedial program for the disadvantaged. Yet, thus far, we have not been able to get the local educational agencies to comprehend this concept. Instead, a program that is designed for a public school is transferred over into one of our schools, whereas our remedial and therapeutic needs for the disadvantaged are diametrically different.

Five, the Office of Education should take necessary steps to upgrade the scope of its responsibilities and to reorient its personnel in the nonpublic school sector. There cannot be and should not be a sentiment of secondary priorities where the outcome will be measured in forgotten children.

In conclusion, the specific titles of the bill under discussion should be commented on. Let me address myself to title I.

We favor the designation of special educational arrangement wherein children who require such services can participate without full-time public school attendance. Such special programs might subsume educational radio and television, mobile educational services, remedial education, preschool or after-school programs, additional instructional personnel, equipment and facilities that may be judged necessary for improving the education of disadvantaged children.

Under title II we cannot sufficiently stress the value of reading resources and their availability to schoolchildren. The manifold material of school libraries and the wide range of public published instructional materials, textbooks and audiovisual aids, are essential to improve the educational quality of young people throughout the Nation.

We would like to go on record as favoring a plan which would devise a method for making books, periodicals, documents, magnetic tapes, phonograph recordings and other printed materials available for the use of all schoolchildren in every State. The budgetary allocations of the day schools are severely limited and the provision for adequate school library resources and instructional materials often taxes these schools beyond their capacity.

We therefore, enthusiastically support the proposal in title II wherein such materials can be purchased with Federal funds.

These materials, of course, will not be used for sectarian instruction or religious worship. They would be made available for the use of students in nonpublic school areas on the same basis as those used or approved for use in public schools of the State. In those States legally unable to provide materials for students in nonpublic schools the commissioner of education should be enabled to make available to such children the material similarly to those used in public schools of the State.

Further we would request that representatives of the private schools participate along with the public school authorities in the specific selection of the textbooks and instructional materials.

As for our view regarding title III, let me cite the plight of many areas in New York City where the absence of innovative practices and supplementary centers for Jewish schoolchildren in day schools has worked to the disadvantage of the entire community. In New York City 50 percent of the Jewish children attend Hebrew day school. Nearly 120 of the 181 schools in this major city are located in poverty areas, and about 35,000 pupils attend such schools in poor and lower middle-class areas.

With an educational institution such as the Hebrew day school being the pivotal institution in the structure of the Jewish community, if it should happen that the Hebrew day schools in such areas were no longer able to provide innovative techniques, scholarship and additional centers, the whole community will be threatened.

There will be a total migration of Hebrew day school and that total migration in itself will cause an upheaval in the entire structure of the community. It is as certain as day follows night that a child given inadequate educational opportunity is denied a basic American right.

We consider it equally as certain that if religious precept tenet and practice impells American parents to send his child to a private school where he is given the equivalent of public school training along with religious instruction, then the principle of equality entitles that child to receive no less favored treatment in any Government sponsored education than any other American child.

Thank you, Mr. Chairman.

Senator **Pell**. Thank you very much indeed. Our final witness on the panel is Dr. Senske, who has previously testified.

Dr. **Senske**. Thank you, Mr. Chairman. I appreciate this opportunity to be with you again and to testify in regard to the Elementary and Secondary Act. We are grateful to be able to be a part of the Council for American Private Education in presenting this testimony.

I am Al H. Senske, secretary of elementary and secondary schools which are operated by congregations of the Lutheran Church-Missouri Synod. Of this international school system, approximately 1,300 schools are located in the United States serving over 165,000 students. Approximately 10 percent of these pupils are nonwhite, nearly one-third are not members of our church body.

The parents who support these schools are very grateful for the help which ESEA has provided toward the education of their children. Many children have received specific help, especially through title II, ESEA, which has provided necessary school library print and nonprint resources and also from title I, ESEA, in the form of remedial services.

Because of the values of ESEA in the past for nonpublic and public education, and because of its potential to be of even greater benefit to American children and youth, we are concerned about the future of ESEA programs, their availability and regulations.

The following positive comments have been shared with me by Lutheran educators from across the country in regard to their ESEA experiences.

IOWA

The children who are eligible are being helped, receiving some real benefits. It allowed us to place remedial emphasis at the junior high school level as well as at the lower levels.

WISCONSIN

The programs have had a beneficial effect upon the eligible children, especially in the area of remedial reading. The services in reading and psychology have been provided by well qualified people.

MINNESOTA

The schools that have been able to avail themselves of the programs have received definite help.

OHIO

Our basic assistance besides through title II, ESEA, has been through remedial reading personnel.

MISSOURI

Title I, ESEA, has been the difference between having some materials and services and not having them. Individualized learning opportunities was one of the results. The teachers in the inner city schools were helped much by inservice education courses. The regular teachers gained much experience in evaluating pupil achievement and in assessing a student's need for special education. We found it to be much more helpful when remedial teachers came directly to the nonpublic schools rather than having to send the children to the public school location.

We need to understand in Missouri there is a pre- and post-Barrera factor. Since the Barrera case things have improved. We also need to understand that the people in Missouri have learned to be thankful for little things, and that is part of the basis of these comments.

INDIANA

Our experiences have been excellent, especially with remedial individualized reading.

NEW YORK

The title II materials and the title I, ESEA, services have been very beneficial. They are providing some help we must continue to receive.

CALIFORNIA

These programs are having some minimal effect, especially title I, ESEA. Title II, ESEA, has been the most helpful.

The ESEA programs have also created some problems and frustrations. I wish to relate what school administrators and officials are reporting concerning these problems.

INDIANA

The redtape seems to be excessive. It is difficult with children living in five or more public school districts to know what is and what is not available, what can and what cannot be done. There is the constant need and demand to do it their way requiring many extra hours of administration time.

IOWA

Communication with local public school and Federal officials is often slow and uncertain. The actual help is limited. So many more children ought to be benefiting from the programs but they do not live in the right section of the community. The State level directives have been extremely dictatorial, no one from the public school sector seems to be interested in listening.

MISSOURI

The paperwork is excessive. This aspect of the administrator's task should be reduced.

WISCONSIN

Where direct subsidy is involved there is so much bookwork that some schools have had to hire extra personnel. The improvement on the part of the pupils has been difficult to measure. Too few children are eligible for title I, ESEA. So many restrictions often actually cripple the program for nonpublic schools. Only the very extremely low pupils are usually eligible.

Too many below-average pupils get no help at all. The target areas exclude many of the needy pupils and families. Some of the eligibility lines are questionable. They get changed without our input. It does not seem fair when two children sitting side by side, both needing remedial help, that only the one is eligible because of where he lives, when in reality his family has a greater income than the ineligible pupil.

Another weakness is that only pupils in the academic title I programs like reading and mathematics are eligible for psychological services or other physical help. This eliminates many children with real needs.

CALIFORNIA

Many children that really need help do not live within the target areas. The public school superintendents, who have the responsibility and directives from State and Federal agencies, are not seeking out opportunities to help children in nonpublic schools. Unless the nonpublic school becomes a "vociferous squeaky wheel" it is ignored.

Ohio: The help is limited. It is too difficult to learn what is available and the proper channels for obtaining assistance.

Illinois: We seem to be at the end of the line in these programs. It presents a real scheduling problem when children have to leave the school in order to obtain help through title I ESEA services.

Minnesota: We are not being invited to participate in project planning sessions.

New York: These are problems in getting involved in the planning stages with the local education agency. Since there is no opportunity to help establish target recipients, there seems to be some inequities. Equitable distribution is very difficult, especially in the large cities. The local school board can change the rules regarding eligibility too easily. The present cutbacks in title II ESEA have really hurt.

The small schools are placed into a competitive position in relation to the large schools due to the concept of the need to concentrate services. The English as a second language (ESL) program, for example, has posed problems especially in New York, Chicago, and other cities because the program will not provide the minimum 2-day a week services to less than 40 children.

Yet a school in New York City, with 20 eligible ESL children, even though they theoretically generate a total of $4,160.40, which would pay for 1½ days of service at $70 a day for a 40-week school year, cannot even receive the minimum service.

The need to indicate remediation priorities by the nonpublic school principal becomes a nightmare of futility. He is not given a specified budget, the guidelines are indefinite, and there is no assurance that the program will ever materialize for any portion of his pupils. At the same time he strives to maintain the regulations that attempt to insure comparability to public and nonpublic children while simultaneously upholding the safeguards that insure that the aid goes to the children and not the school. All of this has hindered program selection, planning, and involvement.

There are no safeguards so that the children living in a target area who are the basis for determining the budget for a specific title I ESEA program will actually be able to benefit from it.

A Brooklyn Lutheran school had 67 eligible children for a remedial mathematics program, more than enough for 2 days of minimum remedial service. Due to the overall budget to all nonpublic schools this school was given a 1 day a week service.

Since this type of service was unjust and unrealistic to the corrective needs of the pupils the school eliminated the service entirely and protested the lack of adequate eligible service. Two day a week service was eventually provided. The major inequity lies in the fact that those 67 pupils theoretically produced a budget of $13,937.57 for central title I services for this school, enough to warrant services 4 days a week. This is clear evidence that the budget is not earmarked for those children who generate it and for whom the program, in theory, is actually provided.

This year, in New York City, in the areas of central title I, district title I, and summer title I, Lutheran schoolchildren are generating $84,080.39. According to present services and projected calculations, these same children will receive only $37,800 worth of services.

It is our hope that the following suggestions can be considered in future ESEA type legislation.

(1) Programs of the ESEA type must continue to exist. In fact, they must be expanded and adequately funded. Even though their overall input has been small compared to the total Lutheran education expenditures, .4 percent of the total budget, they have been of help to children and thus must continue.

(2) Planning for such programs must also include the nonpublic school personnel who are also involved in program implementation. There is a definite need, for the benefit of the total program, for far more nonpublic school input.

(3) It would be helpful if all program planning and finalized plans would include a nonpublic school signoff. This would definitely aid the communication and information process at the local levels.

(4) All programs must include a bypass provision in order to continue to safeguard the availability of such programs in every State.

(5) More thought should be given to what additional detailed planning, especially for urban programs, can be carried out at the State level rather than locally. In the large metropolitan areas, due to serious local financial problems and also due to the constant change of board members and administrative personnel, it is very difficult for local school officials to work in concert with the local public school officials.

In those situations better hearings are received at the State level where there seems to be a more serious attempt to consider the educational concerns of all. Thus we recommend that consideration be given to building in-State criteria rather than only local criteria where feasible, especially in the large urban centers.

(6) There is a tremendous need to continue title VII ESEA which provides for the development and operation of new programs, services, and activities which meet the special needs of children 3–18 years of age who have limited English speaking ability and who come from environments where the dominant language is not English. We are just beginning to learn how to become involved, and how difficult it is to become involved, in such programs through the local education agency.

Its importance is increasing daily. We, the Lutheran schools, and other nonpublic schools as well, need much help in adequately serving and educating limited English-speaking children and adults.

(7) Please help in the task of developing attitudes on the part of people involved in public and nonpublic education that we are not opponents. All of us want all children to receive an excellent education

in the schools of their choice. Help provide programs that can be offered and coordinated by public and nonpublic officials so we can eliminate the distasteful and discriminatory position of begging and pleading for the rights of American children who have chosen to attend a nonpublic school.

When a budget is determined on the basis of a head count of children which includes some of those in nonpublic schools, their receiving of benefits from this budget should not be grudgingly made available as though it were forced charity.

Thank you, Mr. Chairman, for granting me this opportunity to share our appreciation, frustrations, and hopes regarding the Elementary and Secondary Education Act with this committee.

[The prepared statement of Dr. Senske follows:]

Statement of

Al H. Senske, Ed.D.
Secretary of Elementary and Secondary Schools
Board of Parish Education
The Lutheran Church-Missouri Synod

Before the
Subcommittee on Education
of the
COMMITTEE ON LABOR AND PUBLIC WELFARE
United States Senate

October 10, 1973

Mr. Chairman and Members of the Committee:

This opportunity to testify before you in regard to the Elementary and Secondary Education Act is certainly appreciated. We are grateful to be able to be a part of the Council for American Private Education in presenting this testimony.

I am Al H. Senske, Secretary of Elementary and Secondary Schools which are operated by congregations of The Lutheran Church-Missouri Synod. Of this international school system, approximately 1300 schools are located in the United States serving over 165,000 students. Approximately 10% of these pupils are non-white, nearly one-third are not members of our church body.

Appreciation

The parents who support these schools are grateful for the help which ESEA has provided toward the education of their children. Many children have received specific help, especially through Title II ESEA, which has provided necessary school library print and nonprint resources, and also from Title I ESEA in the form of remedial services.

Because of the values of ESEA in the past for nonpublic and public education, and because of its potential to be of even greater benefit to American children and youth, we are concerned about the future of ESEA programs, their availability and regulations.

Positive Experiences

The following positive comments have been shared with me by Lutheran educators from across the country in regard to their ESEA experiences.

Iowa: The children who are eligible are being helped, receiving some real benefits. It allowed us to place remedial emphasis at the junior high school level as well as at the lower levels.

Wisconsin: The programs have had a beneficial effect upon the eligible children, especially in the area of remedial reading. The services in reading and psychology have been provided by well qualified people.

Minnesota: The schools that have been able to avail themselves of the programs have received definite help.

Ohio: Our basic assistance besides through Title II ESEA has been through remedial reading personnel.

Missouri: Title I ESEA has been the difference between having some materials and services and not having them. Individualized learning opportunities was one of the results. The teachers in the inner city schools were helped much by inservice education courses. The regular teachers gained much experience in evaluating pupil achievement and in assessing a student's need for special education. We found it to be much more helpful when remedial teachers came directly to the nonpublic schools rather than having to send the children to the public school location.

Indiana: Our experiences have been excellent, especially with remedial individualized reading.

New York: The Title II materials and the Title I ESEA services have been very beneficial. They are providing some help we must continue to receive.

California: These programs are having some minimal effect, especially Title I ESEA. Title II ESEA has been the most helpful.

Problems

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Iowa: Communication with local public school and federal officials is often slow and uncertain. The actual help is limited. So many more children ought to be benefiting from the programs but they don't live in the right section of the community. The state level directives have been extremely dictatorial, no one from the public school sector seems to be interested in listening.

Missouri: The paper work is excessive. This aspect of the administrator's task should be reduced.

Wisconsin: Where direct subsidy is involved there is so much book work that some schools have had to hire extra personnel. The improvement on the part of the pupils has been hard to measure. Too few children are eligible for Title I ESEA. So many restrictions often actually cripple the program for nonpublic schools. Only the very extremely low pupils are usually eligible. Too many below average pupils get no help at all. The target areas exclude many of the needy pupils and families. Some of the eligibility lines are questionable. They get changed without our input. It doesn't seem fair when two children sitting side by side, both needing remedial help, that only the one is eligible because of where he lives, when in reality his family has a greater income than the ineligible pupil.

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There are no safeguards so that the children living in a target area who are the basis for determining the budget for a specific Title I ESEA program will actually be able to benefit from it.

A Brooklyn Lutheran school had sixty-seven eligible children for a remedial mathematics program, more than enough for two days of minimum remedial service. Due to the overall budget to all nonpublic schools this school was given a one day a week service. Since this type of service was unjust and unrealistic to the corrective needs of the pupils the school eliminated the service entirely and protested the lack of adequate eligible service. Two day a week service was eventually provided. The major inequity lies in the fact that those sixty-seven pupils theoretically produced a budget of $13,937.57 for Central Title I services for this school, enough to warrant services four days a week. This is clear evidence that the budget is not earmarked for those children who generate it and for whom the program, in theory, is actually provided.

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been small compared to the total Lutheran education expenditures, .4% of the total budget, they have been of help to children and thus must continue.

2) Planning for such programs must also include the nonpublic school personnel who are also involved in program implementation. There is a definite need, for the benefit of the total program, for far more nonpublic school input.

3) It would be helpful if all program planning and finalized plans would include a nonpublic school sign-off. This would definitely aid the communication and information process at the local levels.

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Thank you, Mr. Chairman, for granting me this opportunity to share our appreciation, frustrations, and hopes regarding the Elementary and Secondary Education Act with this committee.

Senator PELL. Thank you very much indeed. I have great sympathy for the cause of nonpublic education. It would be a tragedy if they were forced out of existence.

In this regard, it should be pointed out that we have written the legislation in a manner so that many of the Government programs are open to nonpublic school participation. There are problems, either the local authorities are not very enthusiastic, there are other delaying mechanisms, or the private school is not aware that they are eligible. I have great respect for Mr. Thomsen who has worked closely with the subcommittee in making people aware of this. Your organization might in its newsletter make them more aware of their rights in the present Federal programs, because I am not sure that they are getting all they should, and the squeaky wheel does get the grease very often in some of these programs.

I think sometimes there is an inhibition on the part of some of the richer private schools to apply, for example, for title I funds, but if they are eligible for it, they have every right to apply, and even the richest schools are having their problems as well.

So I think that part of the problem of government participation rests with the schools. In general I would gather from your testimony, maybe Mr. Thomsen could comment, you basically support categorical programs as opposed to consolidation, would that be correct or not?

Mr. THOMSEN. I think that we would be supportive of the principle of grant consolidation, but are simply somewhat concerned about the results that might come from the elimination of categorical programs.

In other words, we see many problems at the local level which might develop under a policy of grant consolidation.

Senator PELL. You are not answering directly. Would you prefer consolidation or would you prefer——

Mr. THOMSEN. I think we would probably prefer categorical grants simply because we do not want to lose the small share that we already have.

Senator PELL. The committee hopes to develop some consolidation of some of the programs, that we hope to work out some form of compromise in this.

Mr. THOMSEN. Incidentally, Mr. Potter, who is president of the National Association of Independent Schools, asks me to convey his regrets that he could not be here and to express his appreciation for the continuing efforts of this subcommittee on our behalf.

Senator PELL. In connection with the Hebrew day schools, are those mostly full-time schools or classes after regular school?

Rabbi SEIDMAN. By definition they are full-time schools. There are, in addition, quite a number of part time after regular public schools.

Senator PELL. For religious education?

Rabbi SEIDMAN. For the study of the law or study of tradition.

Senator PELL. How many students do you have in religious schools after public schools?

Rabbi SEIDMAN. That is a little hard to ascertain, but I can find that out.

Senator PELL. Perhaps you could submit that for the record.

Are there any other religious sects that have classes after public schools where they give religious instruction, besides the Roman Catholics? Do the Lutherans, do you have religious instruction after the public schools?

Dr. SENSKE. Yes; we call them weekday schools.

Senator PELL. Do you give that in churches or do you have access to public schools in which to give it?

Dr. SENSKE. It depends on the State they live in, where it is legal and where it is not. Most of it is done at the churches. There are about 60,000 involved at the present time.

Senator PELL. Senator Stafford.

Senator STAFFORD. I was not able to hear the witnesses, and I have no questions, Mr. Chairman. I was shanghaied en route here by the Public Works Committee and had to go there first.

Senator PELL. Thank you very much indeed for being with us, and we thank you for really excellent testimony.

Mr. LAMBORN. Thank you.

Senator PELL. Our next panel represents the U.S. Catholic Conference, and it consists of Dr. Edward D'Alessio, director, Division of Elementary and Secondary Education; Richard Duffy, assistant director; Louis Defeo, general counsel, Missouri Catholic Conference; Alan Davitt, executive secretary, New York State Council of Catholic School Superintendents; and Father Frank Bredeweg, director of special projects, National Catholic Educational Association.

Any of these documents you wish will be inserted in full in the record.

STATEMENT OF DR. EDWARD D'ALESSIO, DIRECTOR, DIVISION OF ELEMENTARY AND SECONDARY EDUCATION; RICHARD DUFFY, ASSISTANT DIRECTOR; LOUIS DEFEO, GENERAL COUNSEL, MISSOURI CATHOLIC CONFERENCE; ALAN DAVITT, EXECUTIVE SECRETARY, NEW YORK STATE COUNCIL OF CATHOLIC SCHOOL SUPERINTENDENTS; AND FATHER FRANK BREDEWEG, DIRECTOR OF SPECIAL PROJECTS, NATIONAL CATHOLIC EDUCATIONAL ASSOCIATION, REPRESENTING U.S. CATHOLIC CONFERENCES, A PANEL

Dr. D'ALESSIO. I am Edward R. D'Alessio, director of the Division of Elementary and Secondary Education of the U.S. Catholic Conference which is the executive agency of the Catholic Bishops of the United States. I speak for the Catholic school community, including about 4 million children of widely varied backgrounds.

My statement will be brief and to the point. Mr. Defeo will also make a short statement. At its conclusion, my colleagues and I will be glad to answer your questions. I am also submitting a more detailed statement which I respectfully request be entered in the record, Mr. Chairman.

Senator PELL. Without objection, the statements will be included in the record at the end of your testimony.

Dr. D'ALESSIO. Before outlining our views on the extension of the Elementary and Secondary Education Act and other matters, I would like to say a few words about how our schools are serving children in the urban areas of the Nation.

Catholic schools have been most commonly located in urban areas in the past and this remains largely true today. Almost 50 percent of all Catholic schools are located in urban and inner city areas.

Nearly half a million students are enrolled in Catholic schools in inner city areas where heavy concentrations of the educationally disadvantaged are found. In the Nation's 20 largest cities, nearly 2 of 5 school children are enrolled in nonpublic schoos, of whom about 80 percent are in Catholic schools.

Catholic leaders have expressed a commitment to continue and endeavor to expand the service to nonpublic school students provided by these schools. The American Catholic bishops said recently:

> Education is a basic need in our society, yet the schooling available to the poor is pitifully inadequate. We cannot break the vicious cycle of poverty producing poverty unless we achieve a breakthrough in our educational system. Quality education for the poor, and especially for minorities who are traditionally victims of discriminaton, s a moral imperative if we are to give millions a realistic chance to acheve base human dgnity. Catholic school systems, at all levels, must redouble their efforts, in the face of changing social patterns and despite their own multiple problems, to meet the current social crisis.

The educational and moral leadership exercised in this area by Congress and by this subcommittee under your guidance, Mr. Chairman, accords with our ideals of service and commitment to a greater opportunity for social justice through equal educational opportunity.

We are here today in an effort to further these goals which we feel have much in common with the goals of the Elementary and Secondary Education Act. This legislation is a significant part of the national effort to aid the educationally disadvantaged and important to the Nation's future well-being.

We feel deeply the necessity for more adequate funding for the act, particularly for those titles directed toward the educationally disadvantaged. The Federal effort to provide equal educational opportunity for the disadvantaged should be expanded. The Elementary and Secondary Education Act is an effective instrument for this Nation in providing for these needs. It should be continued; it should be funded more adequately; it should be forward funded; and it should be broadened to effectively include greater numbers of the educationally disadvantaged.

In testifying before this subcommittee in 1969, the U.S. Catholic Conference strongly supported this act. Today we reaffirm that support. At the same time we presented for your consideration a number of problems concerning the effective participation on an equitable basis of nonpublic schoolchildren in these programs. Many of these difficulties remain today.

As you are aware, Mr. Chairman, some titles of the legislation are administered from the State and local levels and some are administered directly from the U.S. Office of Education. We have had positive and less than positive experiences with both types of program. We have worked conscientiously and sincerely with local, State and national officials who are charged with responsibility for the implementation of the provisions of the programs.

We have attempted to remedy at these levels the difficulties which have prevented effective participation of Catholic school children on an equitable basis in programs under all titles of the act. We have proceeded with the understanding that it was clearly the intent of the Congress that these children participate effectively in the programs.

We are now reporting our difficulties to you and presenting our recommendations. Those recommendations have been arrived at through our experience in attempting to facilitate the implementation of the Elementary and Secondary Education Act for Catholic school children at the national level and through consultation with a broad-based group of Catholic school administrators who are attempting to facilitate this participation at the State and local levels.

I will now direct my remarks to individual titles of ESEA. I will address specific problems with respect to these programs and give recommendations for legislative remedies.

Title I, aimed at correcting the injustices of educational disadvantage, has been of great value to children in Catholic schools. Congress should not permit any departure of effort from this area. More adequate funding is needed. The conditions which prompted the enactment of this title have not changed significantly. At its present level of funding, title I has made a beginning and has proven its value. We should continue in this direction.

Serious problems exist for Catholic school children in many parts of the country who are eligible to participate in these programs but are unable to participate or unable to participate effectively.

With due consideration for the many excellent experiences Catholic school administrators have had in working with their public school counterparts, the following problem areas have surfaced:

1. Programs for Catholic school children and teachers in some areas of the country are not comparable in quality, scope, and opportunity for participation to programs for public school children.

2. Catholic school officials in some areas of the country are not involved in the total planning process.

3. Programs for Catholic school children and teachers in some areas of the country are not comparable in per pupil expenditure to per pupil school children.

4. Local educational agencies in many areas of the country are ineffective in assuring that Catholic school children are receiving equitable benefits under title I.

These problems represent serious obstacles to the effective and equitable participation of Catholic schoolchldren in title I programs. We have been unable to resolve these issues administratively.

Congress has clearly indicated its intention that nonpublic school children share equitably in programs under this legislation. If this mandate is to have its full effect, we recommend that a bypass be added to title I. This would provide the Federal Government with an adequate mechanism to remedy situations which cannot be resolved locally.

If the State educational agency is either unable or unwilling to provide services to nonpublic school children and teachers on an equitable basis, the law should grant the Federal Government the necessary bypass authority to provide those services directly or through some intermediary agency.

An example of a provision that would accomplish this objective is the bypass language incorporated in sections 132 (b)(1), 132 (b)(2), and 132 (b)(3) of H.R. 69, as approved recently by the General Subcommittee on Education of the U.S. House of Representatives.

The 1972 and 1973 reports of the National Advisory Council on the Education of Disadvantaged Children have recommended the addition of a bypass provision to title I. We urge you to consider this change for the effect it will have in insuring that these services are provided to the educationally disadvantaged.

The National Advisory Council has also made a number of proposals for administrative changes to insure the effective participation on an equitable basis of nonpublic school children in program under this title. We concur with these recommendations. I respectfully request that pertinent sections of the reports of the National Advisory Council be included in the record, Mr. Chairman.

We strongly support the extension of title II of the Elementry and Secondary Education Act. This title, more than any other, has made provision for the equitable participation of Catholic school children and teachers. The average rate of participation of nonpublic school children since 1965 has been 96.5 percent of those eligible. Ninety-three percent of the 132 Catholic dioceses surveyed by the Harvard Graduate School of Education project in 1970 on "The Effects of Revenue Sharing and Block Grants on Education" rated the educational impact of title II as "good" or "excellent," much higher than the ratings for either titles I or III.

Title II has succeeded for nonpublic school children because adequate provisions to insure effective participation on an equitable basis were written into the original legislation. If our participation in other programs were as fair and unobstructed as it is in title II programs, our overall testimony today would be unqualified praise for the Elementary and Secondary Education Act.

Considerable progress has been made by this title, but the task is far from complete. Children are reading but books are limited, and books are still the essence of a reading program. According to the U.S. Office of Education, 65 percent of participating districts report insufficient library resources.

The director of school libraries of the Archdiocese of Philadelphia testified for the Catholic Library Association before the General Subcommittee on Education of the U.S. House of Representatives earlier this year. She stated that the present library book supply in Catholic schools there, including old and worn books, is only 60 percent of the State standard and about 25 percent of the accepted national standard. If this is an average figure, then many schools, probably those located in the poorest areas, have less than six books per child.

The U.S. Catholic Conference endorses the adequate funding of title II. It is estimated that if this title were funded at $90 million for fiscal year 1973, over 48 million elementary and secondary school students would benefit at an average expenditure of $1.86 per student.

According to a U.S. Office of Education estimate, such an expenditure would result in an increase of 2.5 million library resource items and related materials available to children attending nonpublic schools. The practical education benefits of such an expenditure are very great indeed.

Title III is a point of very serious concern among Catholic school educators. From its inception, Catholic schoolchildren have not shared equitably in the benefits of title III programs. Catholic school administrators feel that the general concept of educational innovation, creativity and experimentation embodied in thie program gives an important thrust toward solution of many serious educational problems.

However, the anticipated benefits of title III for Catholic schoolchildren have not been adequately realized. This is reflected in some statistics for Catholic and nonpublic participation.

In the 1970 Harvard study cited previously, the educational impact of title III was characterized as "poor" by over half of the 111 dioceses responding. Thirty-nine percent judged the educational impact of this title "good" and only 5 percent "excellent." A survey which we conducted recently indicated that about three-quarters of the Catholic school systems in the Nation felt that their participation in title III was unsatisfactory.

This has been our experience with title III programs notwithstanding the 1969 amendment to this title which included a bypass provision. Congress indicated clearly with this provision that it intended that nonpublic schoolchildren participate in these programs but this participation has improved very little because the U.S. Office of Education has been reluctant to invoke this provision of the law.

We have outlined some problems relating to the participation of nonpublic school children in programs under title III. We review these problems as primarily administrative in nature at the level of the U.S. Office of Education as well as at the State and local educational agency levels.

Although this legislation has been written and revised with the participation of nonpublic school children clearly indicated, we feel that the intent of the Congress in this regard has not been fully implemented. We have no legislative recommendations for this title, but if the subcommittee has any proposals to remedy these problems, we would be pleased to work with you.

Title VII, the Bilingual Education Act, is the weakest of the titles in providing for the participation of eligible children in nonpublic schools. According to information obtained from the U.S. Office of Education, there are currently 213 projects funded under title VII. One hundred seventy-eight of these projects serve 105,708 public school children exlusively. The additional projects include 3755 children who attend nonpublic schools.

These figures are discouraging in view of the clear obligations of the Commissioner of Education and the local educational agencies to insure the participation of eligible nonpublic school children. The language of the act states that nonpublic school officials must be involved in the planning of the projects. It also states that the Commissioner may approve projects only if provision has been made for the participation of eligible nonpublic school children.

In the project grant applications used by the U.S. Office of Education, applicants are requested to provide full information concerning the numbers and expected participation of local nonpublic school children. Of the 213 applications approved for project grants under title VII by the U.S. Office of Education, 178 do not contain the requested information relating to nonpublic school children.

Clearly, nonpublic school officials were not involved in the planning of these projects and it would appear that the local educational agencies have no intention of providing for the participation of these children.

This clear disregard for specific provisions of title VII on the part of local educational agencies and the U.S. Office of Education has prevented effective participation on an equitable basis for many thousands of nonpublic school children. The intent of Congress to provide for the effective and equitable participation of nonpublic school children in these projects has neither been seriously implemented by local educational agencies, nor reasonably protected by the U.S. Office of Education.

We ask that congressional action be taken to relieve this indifference to nonpublic school children and to the expressed will of Congress. The following changes in title VII are recommended by the U.S. Catholic Conference:

1. The law should specify that the participation of eligible nonpublic school children and teachers in title VII projects be on an equitable basis.
2. The law should specify that appropriate nonpublic school officials participate in the planning, establishment, and implementation of title VII projects.
3. The Commissioner of Education should be required to make an annual accounting to the appropriate committees of the Congress on the use of title VII funds, and this accounting should include a separate statement of the extent of participation of eligible nonpublic school children in projects funded by this title and of the amount of funds expended on such children.

These recommendations are detailed in our additional testimony.

Title VIII also funds programs through direct application to the U.S. Office of Education. These are the dropout prevention and nutrition and health demonstration projects. Although we do not have figures for the participation of nonpublic school children in programs under this title, we feel that these children have not been adequately provided for in the implementation of the programs. We request that you consider changes in this title to provide for the effective participation, on an equitable basis, of nonpublic school children in these programs.

That concludes my presentation of our experiences with the various programs of the Elementary and Secondary Education Act and our recommendations for legislative action. I would like to reemphasize our basic and firm support for the continuation of the act.

Although our participation has been unsatisfactory in some areas and very poor in a few respects, much educational benefit for children, especially disadvantaged children, has resulted from this legislation. This is an appropriate instrument for this Nation to use in solving some of its most troublesome problems.

It should be continued and it should be adequately funded. Our recommendations have been made with a desire to insure that the maximum benefit is derived from these programs. I feel that our objectives, with respect to this act, are mutual and that these suggestions will assist its effective implementation.

Many of the problems I have described have persisted despite close attention given them by Congress. On several occasions in testimony before this and other congressional committees, Mr. Chairman, we have recommended the appointment of a policy-level nonpublic school official in the U.S. Office of Education.

A similar recommendation has been made by the President's Panel on Nonpublic Education and by the National Advisory Council on the

Education of Disadvantaged Children in its 1973 report. Such an official would participate in policy development, planning, and liaison between nonpublic schools and the Federal Government. He would establish a system of monitoring nonpublic school participation in Federal education programs and would help to establish the necessary attitudinal climate to insure that the participation of nonpublic schoolchildren in Federal education programs is effective and equitable. Nonpublic school students would then have an advocate within the Federal structure which they do not now have despite the legislated eligibility of nonpublic school students for participation in many programs.

The need for such a post is illustrated by our proceeding testimony, particularly with regard to the problems we have reported concerning titles III and VII.

In December 1972, the U.S. Office of Education issued a policy statement to chief State school officers and nonpublic school administrators urging steps to insure equitable participation of nonpublic school students in Federal programs for which they are eligible. I would like to submit this statement for the record, Mr. Chairman.

It says in part that the "U.S. Office of Education has a responsibility to assure that the benefits of all programs for which nonpublic schoolchildren are eligible are made fully available to such children."

We applaud this effort, however, modest. We hope that the U.S. Office of Education will take seriously its determination, stated in this memorandum, "to achieve that degree of participation of eligible nonpublic school students which is required by law." This is a positive contribution to a pressing problem of administration that still awaits more comprehensive approaches.

In testimony before this subcommittee in 1971, the U.S. Catholic Conference expressed its opposition to the enactment of the administration's education special revenue sharing bill unless a number of significant changes were incorporated. The Better Schools Act of 1973, submitted by the administration, did not include the recommendations made by the U.S. Catholic Conference and our position on this legislation has not changed from the position taken in 1971.

We have taken no position on the merits of consolidation of present categorical programs. Any consolidation, however, should include adequate provision for the effective participation on an equitable basis of nonpublic schoolchildren.

An example of a provision that would insure equitable participation is section 807 of H.R. 69 which was recently reported from the general Subcommittee on Education of the U.S. House of Representatives.

It is our understanding that the administration proposes to consolidate the Vocational Education Act as part of an overall consolidation of elementary and secondary education programs. Provision has been made for the participation of eligible nonpublic schoolchildren and teachers in three parts of this act, namely parts B section 122(a)(4)(A), D exemplary programs and G cooperative vocational education programs.

In these programs, furthermore, 100 percent Federal funding is provided in the present legislation which is a necessary condition for in suring the equitable participation of eligible nonpublic schoolchildren and teachers.

We do not take any position on the merits of consolidating the Vocational Education Act. Any consolidation, however, should retain the existing provisions to insure the participation of eligible nonpublic schoolchildren and teachers. These programs should also continue to receive 100 percent Federal funding.

In any legislation providing general aid to elementary and secondary education as well as any legislation providing for the equalization of school finance, the U.S. Catholic Conference feels that such legislation should reflect the following principles with regard to nonpublic school participation.

1. All elementary and secondary schoolchildren should be counted equally in determining the amount of Federal aid to be provided.

2. The amount of Federal aid provided for nonpublic schoolchildren should be proportional to the number of such children in the school population as a whole.

3. The kinds of services provided should be limited to those which are constitutionally permissible.

4. A bypass provision should be included to insure participation of nonpublic schoolchildren in those States which are prohibited by law or where there has been a substantial failure to provide these services and to insure nonpublic school participation in those school districts which for some reason do not participate in the Federal program.

Finally, Mr. Chairman, we have often pointed out that the issue of equal educational opportunity is a moral one, closely related to the larger issue of racial equality. In securing the right of all children to equal educational opportunity, busing, in some instances, is an essential tool.

We are opposed to any legislation which would restrict these rights. The use of busing as an instrument to achieve these goals and to secure enactment of such legislation would be a serious setback to the quest for racial justice and equal educational opportunity.

Mr. Chairman, I thank you very much for providing this opportunity to testify before the subcommittee. At the conclusion of Mr. Defeo's statement, my colleagues and I will be happy to answer any questions that either you or the members of the subcommittee may have.

Senator PELL. Thank you for an excellent and a good strong statement.

[The prepared and supplemental statements of Mr. D'Alessio follow:]

Statement of

Edward R. D'Alessio, Ph.D.
Director
Division of Elementary and Secondary Education
United States Catholic Conference

Before the
Subcommittee on Education
Committee on Labor and Public Welfare
United States Senate

Wednesday, October 10, 1973
10:00 a.m.

Accompanied by:

Mr. Richard E. Duffy
Assistant Director, Governmental Programs
Division of Elementary and Secondary Education
United States Catholic Conference

Mr. Louis C. DeFeo, General Counsel
Missouri Catholic Conference

Rev. Frank Bredeweg
Director, Special Projects
National Catholic Educational Association

Mr. J. Alan Davitt
Executive Secretary
New York State Council of
Catholic School Superintendents

Mr. Chairman and Members of the Subcommittee:

I am Edward R. D'Alessio, Director of the Division of Elementary and Secondary Education of the United States Catholic Conference which is the executive agency of the Catholic Bishops of the United States. I speak for the Catholic school community, including about four million children of widely varied backgrounds. My statement will be brief and to the point. Mr. DeFeo will also make a short statement. At its conclusion, my colleagues and I will be glad to answer your questions. I am also submitting a more detailed statement which I respectfully request be entered in the Record, Mr. Chairman.

Before outlining our views on the extension of the Elementary and Secondary Education Act and other matters, I would like to say a few words about how our schools are serving children in the urban areas of the nation.

Catholic schools have been most commonly located in urban areas in the past and this remains largely true today. Almost fifty percent of all Catholic schools are located in urban and inner city areas. Nearly half a million students are enrolled in Catholic schools in inner city areas where heavy concentrations of the educationally disadvantaged are found. In the nation's twenty largest cities, nearly 2 of 5 school children are enrolled in nonpublic schools, of whom about eighty percent are in Catholic schools.

Catholic leaders have expressed a commitment to continue and endeavor to expand the service to nonpublic school students provided by these schools. The American Catholic Bishops said recently,

> Education is a basic need in our society, yet the schooling available to the poor is pitifully inadequate. We cannot break the vicious cycle of poverty producing poverty unless we achieve a breakthrough in our educational system. Quality education for the poor, and especially for minorities who are traditionally victims of discrimination, is a moral imperative if we are to give millions a realistic chance to achieve basic human dignity. Catholic school systems, at all levels, must redouble their efforts, in the face of changing social patterns and despite their own multiple problems, to meet the current social crisis.

The educational and moral leadership exercised in this area by Congress and by this Subcommittee under your guidance, Mr. Chairman, accords with our ideals of service and commitment to a greater opportunity for social justice through equal educational opportunity.

We are here today in an effort to further these goals which we feel have much in common with the goals of the Elementary and Secondary Education Act. This legislation is a significant part of the national effort to aid the educationally disadvantaged and important to the nation's future well-being.

We feel deeply the necessity for more adequate funding for the Act, particularly for those Titles directed toward the educationally disadvantaged. The federal effort to provide equal educational opportunity for the disadvantaged should be expanded. The Elementary and Secondary Education Act is an effective instrument for this nation in providing for these needs. It should be continued; it should be funded more adequately; it should be forward funded; and it should be broadened to effectively include greater numbers of the educationally disadvantaged.

In testifying before this Subcommittee in 1969, the United States Catholic Conference strongly supported this Act. Today we reaffirm that support. At the same time we presented for your consideration a number of problems concerning the effective participation on an equitable basis of nonpublic school children in these programs. Many of these difficulties remain today.

As you are aware, Mr. Chairman, some Titles of the legislation are administered from the state and local levels and some are administered directly from the U.S. Office of Education. We have had positive and less than positive experiences with both types of programs. We have worked conscientiously and sincerely with local, state and national officials who are charged with responsibility for the implementation of the provisions of the programs. We have attempted to remedy at these levels the difficulties which have prevented effective participation of Catholic school children on an equitable basis in programs under all Titles of the Act. We have proceeded with the understanding that it was clearly the intent of the Congress that these children participate effectively in the programs.

We are now reporting our difficulties to you and presenting our recommendations. These recommendations have been arrived at through our experience in attempting to facilitate the implementation of the Elementary and Secondary Education Act for Catholic school children at the national level and through consultation with a broad-based group of Catholic school administrators who are attempting to facilitate this participation at the state and local levels.

I will now direct my remarks to individual Titles of ESEA. I will address specific problems with respect to these programs and give recommendations for legislative remedies.

Title I, aimed at correcting the injustices of educational disadvantage, has been of great value to children in Catholic schools. Congress should not permit any departure of effort from this area. More adequate funding is needed. The conditions which prompted the enactment of this Title have not changed significantly. At its present level of funding, Title I has made a beginning and has proven its value. We should continue in this direction.

Serious problems exist for Catholic school children in many parts of the country who are eligible to participate in these programs but are unable to participate or are unable to participate effectively. With due consideration for the many excellent experiences Catholic school administrators have had in working with their public school counterparts, the following problem areas have surfaced.

1. Programs for Catholic school children and teachers in some areas of the country are not comparable in quality, scope and opportunity for participation to programs for public school children.
2. Catholic school officials in some areas of the country are not involved in the total planning process.
3. Programs for Catholic school children and teachers in some areas of the country are not comparable in per pupil expenditure to per pupil expenditure for public school children.

4. Local educational agencies in many areas of the country are ineffective in assuring that Catholic school children are receiving equitable benefits under Title I.

These problems represent serious obstacles to the effective and equitable participation of Catholic school children in Title I programs. Thus far, we have been unable to resolve these issues administratively.

Congress has clearly indicated its intention that nonpublic school children share equitably in programs under this legislation. If this mandate is to have its full effect, we recommend that a bypass be added to Title I. This would provide the federal government with an adequate mechanism to remedy situations which cannot be resolved locally. If the state educational agency or local educational agency is either unable or unwilling to provide services to nonpublic school children and teachers on an equitable basis, the law should grant the federal government the necessary bypass authority to provide those services directly or through some intermediary agency. An example of a provision that would accomplish this objective is the bypass language incorporated in Sections 132 (b)(1), 132 (b)(2), and 132 (b)(3) of H.R. 69 as approved recently by the General Subcommittee on Education of the United States House of Representatives. The 1972 and 1973 Reports of the National Advisory Council on the Education of Disadvantaged Children have recommended the addition of a bypass provision to Title I. We urge you to consider this change for the effect it will have in ensuring that these services are provided to the educationally disadvantaged.

The National Advisory Council has also made a number of proposals for administrative changes to ensure the effective participation on an equitable basis of nonpublic school children in programs under this Title. We concur with these recommendations. I respectfully request that pertinent sections of the Reports of the National Advisory Council be included in the Record, Mr. Chairman.

We strongly support the extension of Title II of the Elementary and Secondary Education Act. This Title, more than any other, has made provision for the equitable participation of Catholic school children and teachers. The average rate of participation of nonpublic school children since 1965 has been 96.5 percent of those eligible. Ninety-three percent of the 132 Catholic dioceses surveyed by the Harvard Graduate School of Education project in 1970 of The Effects of Revenue Sharing and Block Grants on Education rated the educational impact of Title II as "good" or "excellent," much higher than either Titles I or III.

Title II has succeeded for nonpublic school children because adequate provisions to ensure effective participation on an equitable basis were written into the original legislation. If our participation in other programs were as fair and unobstructed as it is in Title II programs, our overall testimony today would be unqualified praise for the Elementary and Secondary Education Act.

Considerable progress has been made by this Title, but the task is far from complete. Children are reading but books are limited, and books are still the essence of a reading program. According to the U.S. Office of Education, 65% of participating districts report insufficient library resources. The Director of School Libraries of the Archdiocese of Philadelphia testified for the Catholic Library Association before the General Subcommittee on Education of the U.S. House of Representatives earlier this year. She stated that the present library book supply in Catholic schools there, including old and worn books, is only 60% of the state standard and about 25% of the accepted national standard. If this is an average figure, then many schools, probably those located in the poorest areas, have less than six books per child.

The U.S. Catholic Conference endorses the adequate funding of Title II. It is estimated that if this Title were funded at $90 million for Fiscal Year 1973, over 48 million elementary and secondary school students would benefit at an average expenditure of $1.86 per student. According to a U.S. Office of Education estimate, such an expenditure would result in an increase of 2.5 million library resources and related materials available to children attending nonpublic schools. The practical educational benefits of such an expenditure are very great indeed.

Title III is a point of very serious concern among Catholic school educators. From its inception, Catholic school children have not shared equitably in the benefits of Title III programs. Catholic school administrators feel that the general concept of educational innovation, creativity and experimentation embodied in this program gives an important thrust toward solution of many serious educational problems. However, the anticipated benefits of Title III for Catholic school children have not been adequately realized. This is reflected in some statistics for Catholic and nonpublic participation.

In the 1970 Harvard study cited previously, the educational impact of Title III was characterized as "poor" by over half of the 111 dioceses responding. Thirty-nine percent judged the educational impact of this Title "good" and only five percent "excellent." A survey which we conducted recently indicated that about three-quarters of the Catholic school systems in the nation felt that their participation in Title III was unsatisfactory.

This has been our experience with Title III programs notwithstanding the 1969 amendment to this Title which included a bypass provision. Congress indicated clearly with this provision that it intended that nonpublic school children should participate in these programs but this participation has improved very little since the U.S. Office of Education has been reluctent to invoke this provision of the Law.

We have outlined some problems relating to the participation of nonpublic school children in programs under Title III. We view these problems as primarily administrative in nature at the level of the U.S. Office of Education as well as at the state and local educational agency levels. Although this legislation has been written and revised with the participation of nonpublic school children clearly indicated, we feel that the intent of the Congress in this regard has not been fully implemented. We have no legislative recommendations for this Title, but if the Subcommittee has any proposals to remedy these problems, we would be please to work with you.

Title VII, the Bilingual Education Act, is the weakest of the Titles in providing for the participation of eligible children in nonpublic schools. According to information obtained from the U.S. Office of Education, there are currently 213 projects funded under Title VII. One hundred seventy-eight of these projects serve 105,708 public school children exclusively. The thirty-five additional projects include 3,755 children who attend nonpublic schools.

These figures are discouraging in view of the clear obligations of the Commissioner of Education and the local educational agencies to ensure the participation of eligible nonpublic school children. The language of the Act states that nonpublic school officials must be involved in the planning of the projects. It also states that the Commissioner may approve projects only if provision has been made for the participation of eligible nonpublic school children.

In the project grant applications used by the U.S. Office of Education, applicants are requested to provide full information concerning the numbers and expected participation of local nonpublic school children. Of the 213 applications approved for project grants under Title VII by the U.S. Office of Education, 178 do not contain the requested information relating to nonpublic school children. Clearly, nonpublic school officials were not involved in the planning of these projects and it would appear that the local educational agencies have no intention of providing for the participation of these children.

This clear disregard for specific provisions of Title VII on the part of local educational agencies and the U.S. Office of Education has prevented effective participation on an equitable basis for many thousands of nonpublic school children. The intent of Congress to provide for the effective and equitable participation of nonpublic school children in these projects has neither been seriously implemented by local educational agencies, nor reasonably protected by the U.S. Office of Education.

We ask that Congressional action be taken to relieve this indifference to nonpublic school children and to the expressed will of Congress. The following changes in Title VII are recommended by the U.S. Catholic Conference.

1. The law should specify that the participation of eligible nonpublic school children and teachers in Title VII projects be on an equitable basis.
2. The law should specify that appropriate nonpublic school officials participate in the planning, establishment and implementation of Title VII projects.
3. The Commissioner of Education should be required to make an annual accounting to the appropriate Committees of the Congress on the use of Title VII funds, and this accounting should include a separate statement of the extent of participation of eligible nonpublic school children in projects funded by this Title and of the amount of funds expended on such children.

These recommendations are detailed in our additional testimony.

Title VIII also funds programs through direct application to the U.S. Office of Education. These are the Dropout Prevention and Nutrition and Health Demonstration Projects. Although we do not have figures for the participation of nonpublic school children in programs under this Title, we feel that these children have not been adequately provided for in the implementation of the programs. We request that you consider changes in this Title to provide for the effective participation on an equitable basis of nonpublic school children in these programs.

That concludes my presentation of our experiences with the various programs of the Elementary and Secondary Education Act and our recommendations for legislative action. I would like to reemphasize our basic and firm support for the continuation of the Act. Although our participation has been unsatisfactory in some areas and very poor in a few respects, much educational benefit for children, especially disadvantaged children, has resulted from this legislation. This is an appropriate instrument for this nation to use in solving some of its most troublesome problems. It should be continued and it should be adequately funded. Our recommendations have been made with a desire to ensure that the maximum benefit is derived from these programs. I feel that our objectives with respect to this Act are mutual and that these suggestions will assist its effective implementation.

Many of the problems I have described have persisted despite close attention given them by Congress. On several occasions in testimony before this and other Congressional Committees, Mr. Chairman, we have recommended the appointment of a policy-level nonpublic school official in the U.S. Office of Education. A similar recommendation has been made by the President's Panel on Nonpublic Education and by the National Advisory Council on the Education of Disadvantaged Children in its 1973 Report. Such an official would participate in policy development, planning and liaison between nonpublic schools and the federal government. He would establish a system of monitoring nonpublic school participation in federal education programs and would help to establish the necessary attitudinal climate to ensure that the participation of nonpublic school children in federal education programs is effective and equitable. Nonpublic school students would then have an advocate within the federal structure which they do not now have despite the legislated eligibility of nonpublic school students for participation in many programs. The need for such a post is illustrated by our preceeding testimony, particularly with regard to the problems we have reported concerning Titles III and VII.

In December, 1972, the U.S. Office of Education issued a policy statement to Chief State School Officers and Nonpublic School Administrators urging steps to ensure equitable participation of nonpublic school students in federal programs for which they are eligible. I would like to submit this statement for the Record, Mr. Chairman.

It says in part that the "U.S. Office of Education has a responsibility to assure that the benefits of all programs for which nonpublic school children are eligible are made fully available to such children."

We applaud this effort, however modest. We hope that the U.S. Office of Education will take seriously its determination, stated in this memorandum, "to achieve that degree of participation of eligible nonpublic school students which is required by law." This is a positive contribution to a pressing problem of administration that still awaits more comprehensive approaches.

In testimony before this Subcommittee in 1971, the United States Catholic Conference expressed its opposition to the enactment of the Administration's Education Special Revenue Sharing Bill unless a number of significant changes were incorporated. The Better Schools Act of 1973, submitted by the Administration, did not include the recommendations made by the U.S. Catholic Conference and our position on this legislation has not changed from the position taken in 1971.

We have taken no position on the merits of consolidation of present categorical programs. Any consolidation, however, should include adequate provision for the effective participation on an equitable basis of nonpublic school children. An example of a provision that would ensure equitable participation is Section 807 of H.R. 69 which was recently reported from the General Subcommittee on Education of the U.S. House of Representatives.

It is our understanding that the Administration proposes to consolidate the Vocational Education Act as part of an overall consolidation of elementary and secondary education programs. Provision has been made for the participation of eligible nonpublic school children and teachers in three Parts of this Act. In these programs, furthermore, one hundred percent federal funding is provided in the present legislation which is a necessary condition for ensuring the equitable participation of eligible nonpublic school children and teachers.

We do not take any position on the merits of consolidating the Vocational Education Act. Any consolidation, however, should retain the existing provisions to ensure the participation of eligible nonpublic school children and teachers. These programs should also continue to receive one hundred percent federal funding.

In any legislation providing general aid to elementary and secondary education as well as any legislation providing for the equalization of school finance, the U.S. Catholic Conference feels that such legislation should reflect the following principles with regard to nonpublic school participation.

1. All elementary and secondary school children should be counted equally in determining the amount of federal aid to be provided.
2. The amount of federal aid provided for nonpublic school children should be proportional to the number of such children in the school population as a whole.
3. The kinds of services provided should be limited to those which are constitutionally permissable.
4. A bypass provision should be included to ensure participation of nonpublic school children in those states which are prohibited by law or where there has been a substantial failure to provide these services and to ensure nonpublic school participation in those school districts which for some reason do not participate in the federal program.

Finally, Mr. Chairman, we have often pointed out that the issue of equal educational opportunity is a moral one, closely related to the larger issue of racial equality. In securing the right of all children to equal educational opportunity, busing, in some instances, is an essential tool. We are opposed to any legislation which would restrict the use of busing as an instrument to achieve these goals and to secure these rights. Enactment of such legislation would be a serious setback to the quest for racial justice and equal educational opportunity.

Mr. Chairman, I thank you very much for providing this opportunity to testify before the Subcommittee. At the conclusion of Mr. DeFeo's statement, my colleagues and I will be happy to answer any questions that either you or the Members of the Subcommittee may have.

Statement of

Edward R. D'Alessio, Ph.D.
Director
Division of Elementary and Secondary Education
United States Catholic Conference

Submitted to the
Subcommittee on Education
Committee on Labor and Public Welfare
United States Senate

Wednesday, October 10, 1973
10:00 a.m.

Title I

The Catholic school community strongly endorses the extension of Title I of the Elementary and Secondary Education Act. Thousands of educationally disadvantaged youngsters in nonpublic schools across the country have been assisted through special educational services provided by this Title. Although Catholic schools have experienced some serious problems with several areas of this legislation, Title I is a proper instrument for this nation to provide for the needs of educationally disadvantaged children.

On the basis of our experiences in attempting to facilitate the implementation of Title I on the national level and through broad-based consultation with a representative group of Catholic school diocesan and state level administrators, who are attempting to facilitate this participation at the local and state levels, we have identified several problem areas concerning the effective participation on an equitable basis of nonpublic school children and teachers in this Title.

The general consensus of these administrators is that significant progress has been made during the past seven years toward ensuring that eligible nonpublic school children and teachers participate equitably in the educational services provided by Title I. These administrators feel, however, that despite its effectiveness and despite significant progress, much improvement remains before eligible children attending nonpublic schools can effectively participate on an equitable basis in Title I.

The problems identified focused on the following general areas.

1. Involvement in the Total Planning Process
2. Comparability of Services
3. Comparability of Expenditures

Involvement in the Planning Process

The Elementary and Secondary Education Act is founded upon the "child benefit" theory that all eligible children, regardless of where they attend school, may receive special educational services to meet their needs. The Elementary and Secondary Education Act is also founded upon the concept of mutual cooperation and collaboration between public and nonpublic educators working in partnership to help overcome the educational deprivation of disadvantaged children. The Elementary and Secondary Education Act, moreover, has been the strongest compelling force yet to joint collaboration between both sectors of education for attaining nationally specified objectives. Catholic school administrators strongly feel that an essential aspect of insuring equitable participation in Title I programs is the involvement of appropriate nonpublic school officials in the total planning process. We define the total planning process as including the following activities.

1. Determination of Target Areas
2. Identification of Target Population
3. Participation in Needs Assessment
4. Selection of Eligible Children
5. Consultation in Program Design
6. Involvement in Program Evaluation

If nonpublic school officials at any level (state, local, school) are excluded from any stage of this planning process, it is probable that inequitable treatment will result. Where participation is poor, it can nearly always be traced to a lack of involvement in one or all phases of the planning process. Catholic school administrators feel that there is a definite correlation between involvement in program planning and equitability in actual participation.

In varying degrees, appropriate nonpublic school administrators find themselves invited by public school officials to cooperate and collaborate in the planning of Title I programs. This mutual cooperation and collaboration between both sectors of education occurs within parameters established by the public sector; it is they who determine at what stage of the planning process they will seek the involvement of nonpublic school representatives. Hence, nonpublic school administrators find themselves included in certain aspects of the planning and excluded from other aspects, depending upon the decision of the public school officials. The degree to which nonpublic school administrators are involved in the total planning process cannot definitely and accurately be measured.

Catholic school administrators have expressed strong dissatisfaction with the level of consultation and participation in the total planning process. They concluded that although there is apparent involvement in many cases of appropriate representatives of nonpublic schools in the planning of Title I programs, this involvement is ineffective and largely _pro forma_ in many instances.

Comparability of Services

Are the special educational services for eligible nonpublic school children comparable to those services rendered eligible public school children? Many Catholic school administrators identify one important stage of the planning process--participation in the needs assessment--from which many nonpublic school administrators are excluded. These administrators feel that public school officials have a lack of knowledge of the needs of nonpublic school students; consequently, Title I programs are frequently not suited to meet the needs of nonpublic school children. Persons knowledgeable of these needs ought to be involved in assessment in the planning process. In cases where nonpublic school administrators were involved in needs assessment, programs were designed to meet such needs. Programs can never be comparable in scope and quality if they are designed in a vacuum, or for a group of children without consulting persons responsible for and knowledgeable of the needs of such children.

Comparability of scope and quality also includes evaluating the delivery of services, that is, where was the service delivered, how was the service rendered and by whom? There are many delivery systems for services to nonpublic school children; for example, public school teachers teach special classes in nonpublic schools, nonpublic school children attend special classes in public schools during the regular school day, and nonpublic school children attend special classes in the public school after regular school hours and on Saturday morning. The least effective and clearly incomparable in scope, quality and opportunity for effective participation on an equitable basis is the after regular hours or Saturday morning approach. Catholic school administrators feel that one consideration overrides all others in determining where and how the nonpublic school children should be served; the effectiveness of the program.

Other measures of comparability are the assignment of teacher-aides for Title I activities conducted and supervised by Title I teachers. Many Catholic school administrators report that in certain Title I programs conducted and supervised by Title I teachers, the public school assigns teacher-aides to assist the Title I programs in the public schools, but that no teacher-aides are assigned to assist similar Title I programs for nonpublic school children, even when requested.

Comparability of Expenditure

Measuring comparability of service vis-a-vis comparability of per pupil expenditure shows a wide disparity among states and even within states. Some Catholic school administrators feel that a "comparable or equitable" amount of their school district's Title I funds are not allocated to provide services to nonpublic school children. ESEA legislation suggests an "ideal" per pupil expenditure for Title I services--one-half of the local educational agency's normal per pupil expenditure. In some states, the state educational agency has established a per pupil expenditure for ESEA programs, while in other states there is no established policy or per pupil cost--it is left to the discretion of the local educational agency. In many such local educational agencies, moreover, there are disparities of per pupil expenditures for public school programs and nonpublic school programs. One large city school district expends $400 per pupil for Title I services for public school children; that is, one-half of the local educational agency's normal per pupil cost; while for services to nonpublic school children, the same district allocates $233 per eligible pupil which supposedly is one-half of the nonpublic school per pupil expenditure. Is this comparability of scope, quality and opportunity to participate? We realize that there is no requirement that a certain amount or percentage of money must be spent on each nonpublic school child--or for that matter, on a public school child--nor is there any formula or device as to the number or percentage of children who must be served. However, the per pupil expenditure is an indicator of comparability of scope, quality and opportunity.

Convergence of these types of problems at the local level combined with various indigenous administrative problems often results in a lack of genuine opportunities for eligible nonpublic school student participation.

Summary

Catholic school administrators strongly support the extension and amendment of ESEA Title I. Their rating of Title I programs ranges from excellent to poor depending upon a variety of factors: restrictive state constitutions or interpretations thereof, rapport with the state or local educational agency, degree of involvement in the planning process, and comparability of services and expenditure and others. In providing effective participation on an equitable basis to eligible children in nonpublic schools, Title I cannot be supported wholeheartedly. Basically, the Catholic school community feels that Title I is rendering a worthwhile service to nonpublic school children, but there is much room for improvement before the full intent of Title I is realized.

Reasons for inequitable participation of nonpublic school students in Title I programs follow.

1. Catholic school administrators in some areas of the country are not involved in the total planning process.

2. Programs for Catholic school children and teachers in some areas of the country are not comparable in quality, scope and opportunity for participation to programs for public school children.

3. Programs for Catholic school children and teachers in some areas of the country are not comparable in per pupil expenditure to the per pupil expenditure for public school children.

4. Local educational agencies in many areas of the country have been ineffective in assuring that Catholic school children are receiving equitable benefits under Title I.

Recommendation

The United States Catholic Conference makes the following recommendation to insure equitable participation of eligible nonpublic school children and teachers in ESEA Title I programs.

A bypass provision must be added to Title I which will provide the federal government with the necessary mechanism to remedy a situation which cannot be resolved locally. If the state educational agency or local educational agency is either unable or unwilling to provide services to nonpublic school children and teachers on an equitable basis, the law should grant the federal government the necessary bypass authority to provide those services directly or through some intermediary agency. An example of a provision that would accomplish this objective is the bypass language incorporated in Section 132 (b)(1), 132 (b)(2), and 132 (b)(3) of H.R. 69 as approved recently by the General Subcommittee on Education of the United States House of Representatives.

The 1972 and 1973 Reports of the National Advisory Council on the Education of Disadvantaged Children have recommended the addition of a bypass provision to Title I. The National Advisory Council has also made a number of proposals for administrative changes to ensure the effective participation on an equitable basis of nonpublic school children in programs under this Title. We concur with these recommendations. Pertinent sections of these reports have been submitted for inclusion in the Record.

Title II

The U. S. Catholic Conference strongly supports the extention of Title II of the Elementary and Secondary Education Act.

The purpose of this Title is to provide school library resources, textbooks and other instructional materials for the use of children and teachers in public and nonpublic elementary and secondary schools. Since its inception in 1965 this Title, more than any other Title of the Act, has made provision for the equitable participation of nonpublic children and teachers. The average rate of participation of nonpublic school children since 1965 has been 96.5 percent of those eligible. Ninety-three percent of the 132 Catholic dioceses surveyed by the Harvard Graduate School of Education study of The Effects of Revenue Sharing and Block Grants on Education in 1970 rated the educational impact of Title II as "excellent" or "good," higher than either Titles I or III.

Title II has been a positive catalyst both for the establishment of libraries in nonpublic schools as well as for upgrading the quality of library resources available to children in these schools. The Director of School Libraries, Archdiocese of Philadelphia, has appeared on behalf of the Catholic Library Association before the General Subcommittee on Education of the United States House of Representatives earlier this year.

Her testimony stressed that in the Archdiocese of Philadelphia, 106 schools relocated their libraries in larger quarters. In some instances, these new quarters were built by the parents themselves. Since 1966, 269 new libraries have been established in the diocese; these are especially appreciated in the very poor urban schools of Philadelphia and Chester County. The "comparable efforts" in these areas are often acts of real sacrifice and valor.

In the secondary schools of the Archdiocese of Philadelphia, Title II has strengthened the scholastic program by making it possible to meet the needs of the non-reader--by adding books of high interest and low reading level to libraries, especially those in the city's urban schools. Progress has been made by this program, but the task has just begun. Children are reading, but books are limited and books are still the essence of a reading program.

U. S. Catholic Conference endorses the adequate funding of Title II. It is estimated that if this Title were funded at $90 million for FY 1973, over 48 million elementary and secondary school students would benefit at an average expenditure of $1.86 per student. About sixty-five percent of the school districts that participate in this program report continuing insufficient school library resources. About $8.3 million or 9.2 percent of the funds requested for FY 1973 would be expended for eligible items for use by teachers and students in nonprofit schools. According to a U. S. Office of Education estimate, such an expenditure would result in an increase of 2.5 million library resources and related materials in the nation's nonpublic schools. This expenditure or an increased expenditure would meet a well-demonstrated need.

Title III

From the inception of Title III of the Elementary and Secondary Education Act, nonpublic school children and teachers have not shared equitably in its benefits and we have consistently registered our complaints to the U. S. Office of Education, the President's National Advisory Council on Supplementary Centers and Services and to Congress.

In the 1970 Harvard study mentioned earlier, the educational impact of Title III was characterized as "poor" by over half of the 111 dioceses that responded to this item. Thirty-nine percent judged the educational impact of this Title "good" and five percent, "excellent." This data reflects the attitude of the Catholic school superintendents toward Title III.

Realizing the lack of equitable participation of nonpublic school children and teachers in Title III, the U. S. Catholic Conference independently surveyed Catholic school superintendents to obtain direction concerning our posture toward this Title. Almost 77% of 129 (73.39% of total) respondents stated that Title III should be strengthened to provide for effective participation on an equitable basis for nonpublic school children and teachers. Twelve percent stated that Title III should be dropped outright.

Most of these Catholic school superintendents felt that the general concept of educational innovation, creativity and experimentation was given a forward and positive thrust by Title III. However, the anticipated benefits of this Title in terms of nonpublic school children and teachers never materialized. Catholic school superintendents felt that, although the intent of the legislation is sound, it has not been successfully administered by the U. S. Office of Education, the state educational agencies or the local educational agencies to provide effective and equitable participation of nonpublic school children and teachers.

That nonpublic school children and teachers are not participating equitably in Title III can readily be attested. Father Charles Patrick Laferty, O.S.A., has completed a study commissioned by the President's National Advisory Council on Supplementary Centers and Services in 1972 to assess the involvement of nonpublic school children in this Title.

Father Laferty's study supports two conclusions which nonpublic school educators have been aware of:

1. that the level of participation by nonpublic school children is most inadequate, and
2. that proper participation by nonpublic school personnel in the total planning process is almost non-existent.

The following statistics from Father Laferty's study support these conclusions.

1. In 21.8% of the projects surveyed, project directors "themselves" indicated that nonpublic school children were not being treated equitably.

2. In 22.8% of the projects surveyed, project directors indicated that nonpublic school children were not being treated equitably because of extenuating circumstances.
    a. 37% - no nonpublic school in area served
    b. 20% - restrictive type of project
    c. 4% - state constitutional restriction
    d. 22% - projects designed only for public school children
    e. 17% - little or no interest on the part of nonpublic school officials
3. 78% of nonpublic school administrators surveyed indicated that they were not consulted in the determination of needs for project participants.
4. 78% of nonpublic school administrators surveyed indicated that they were not in any way involved in project planning.
5. 89% of nonpublic school administrators surveyed indicated that they were not involved in the program design of the projects.

That Congress intended to provide for effective participation on an equitable basis for nonpublic school children and teachers is evidenced by the fact that the law was amended in 1969 to provide a bypass provision Section 307 (f) (1). This provision does assure equitable participation but the U. S. Commissioner of Education has been extremely reluctant to invoke it.

The experience of Catholic school administrators in Missouri, illustrates the Commissioner's reluctance to implement his legislative authority and responsibility for assuring justice and equity for nonpublic school children and teachers. The Title III bypass was first invoked in Missouri in October, 1972, after a lengthy history of reluctance. It was not implemented until February of this year more than three months later an[illegible]t the midpoint of the school year.

At present, Title III projects must be held on public premises whenever practicable. We feel that one consideration should override all others in determining where and how children should be served: the effectiveness of the program. Adequate provision for this has been made in both ESEA Title I and the Emergency School Aid Act. If it is more beneficial to the nonpublic school children to provide the services on public school premises, then that ought to be the determining factor. Conversely, if it is more beneficial to such children to provide those services on the private school premises, then that is where they should be provided, so long as the administrative control and supervision of the program remain with public school officials.

We have outlined several problems relating to the participation of nonpublic school children in programs under Title III. We view these problems as primarily administrative in nature at the level of the U. S. Office of Education as well as at the state and local educational agency levels. Although this legislation has been written and revised with the participation of nonpublic school children clearly indicated, we feel that the intent of the Congress in this regard has not been fully implemented. We have no legislative recommendations for this Title but if the Subcommittee has any proposals to remedy these problems, we would be pleased to work with you.

Father Laferty's study has been submitted for inclusion in the Record.

Title VII

The Bilingual Education Act, Title VII, of the Elementary and Secondary Education Act, is the weakest of all Titles of this legislation in providing effective participation on an equitable basis to eligible children in nonpublic schools.

According to information obtained from the U. S. Office of Education, there are 213 currently funded bilingual education programs supported under Title VII. One hundred seventy-eight of these programs serve 105,708 public school children exclusively; 35 additional programs include participation by 3,755 children who attend nonpublic schools.

In making application for a project grant under Title VII -- Section 705 (a) (8) provides "that the applicant will utilize in programs assisted pursuant to this Title the assistance of persons with expertise in the educational problems of children of limited English-speaking ability and make optimum use in such programs of the cultural and educational resources of the area to be served; and for the purposes of this paragraph, the term 'cultural and educational resources' includes state education agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television and other cultural and educational resources."

Section 705 (b) states: "Applications for grants under title may be approved by the Commissioner only if -- (3) the Commissioner determines (A) that the program will utilize the best available talents and resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (B) that, to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which this program is intended to meet, provision has been made for participation of such children."

Nonpublic school officials, therefore, are to be involved in the planning of Title VII projects; the participation of eligible nonpublic school children is to be provided for by the local educational agency.

The Title VII grant application submitted by the local educational agency to the U. S. Office of Education requests pupil population data. The following information is requested by the Office of Education on the grant application:

1. Total local educational agency enrollment (both public and nonpublic school).
2. Number of children in local educational agency whose dominant language is NOT English (both public and nonpublic school).
3. Enrollment of project area (both public and nonpublic school).

4. Number of children in project area whose dominant language is NOT English (both public and nonpublic school).

5. Number of children in project area whose dominant language is NOT English who would participate in project (both public and nonpublic school).

6. Number of children in project area whose dominant language IS English who would participate in the project (both public and nonpublic school).

7. Total number of children in project area who would participate in project (both public and nonpublic school).

Title VII provides that the Commissioner may approve a grant only if provision has been made for the participation of eligible nonpublic school children and teachers. (Section 705 (b) (3) (B))

In analyzing and evaluating the 213 applications approved for project grants under Title VII -- one hundred and seventy-eight applications do not have complete pupil population data. Lacking on these applications are the data requested relative to the nonpublic schools. Clearly, this is an indication that nonpublic school officials were not involved in the planning of the projects and that the local educational agency had no intention of providing for the participation of such nonpublic school children.

Why does the U. S. Office of Education accept and approve project applications which have incomplete data, which give every indication that the total "cultural and educational" resources of the area to be served were NOT involved in the planning of the project and which DO NOT make provision for participation of nonpublic school children according to the "extent consistent" provision (Section 705 (b) (3) (B)) of the legislation?

We feel there has been obvious circumventing of specific provisions of Title VII on the part of the local educational agencies and negligence on the part of the Office of Education in enforcing compliance to all provisions of this Title. Clearly, the intent of Congress to provide for the effective participation on an equitable basis of eligible nonpublic school children and teachers in Title VII projects has neither been seriously implemented by the local educational agencies, nor reasonably protected by the Office of Education.

Recommendations:

We are requesting that Congressional action be taken to relieve this indifference and disregard for eligible nonpublic school children and the resulting injustice. We recommend the following changes in Title VII legislation.

1. The law should specify that the participation of eligible nonpublic school children and teachers in Title VII projects be on an equitable basis.

2. The law should specify that appropriate nonpublic school officials participate in the planning, establishment and implementation of Title VII projects.

3. The Commissioner of Education should be required to make an annual accounting to the appropriate Committees of the Congress on the use of Title VII funds, and this accounting should include a separate statement of the extent of participation of eligible nonpublic school children in projects funded by this Title and of the amount of funds expended on such children.

Title VIII

Title VIII of the Elementary and Secondary Education Act, in addition to dealing with the General Provisions of the Act, also includes provisions for Dropout Prevention Projects (Section 807) and Grants for Demonstration Projects of Improved School Nutrition and Health Services for Children from Low-Income Families (Section 808). Both of these programs are demonstration type projects.

There are no statuatory limitations prohibiting nonpublic school students from participating in dropout prevention projects; there has been a lack of administrative implementation at the federal level. Section 807 of this Title should be amended to provide for effective participation on an equitable basis of students attending nonpublic schools in such projects.

Section 808 (a) of this Title provides for making grants to "local educational agencies and, where appropriate, nonprofit private educational organizations, to support demonstration projects designed to improve nutrition and health services in public and private schools serving areas with high concentration of children from low-income families." Like Section 807 of Title VIII, Section 808, too, should be amended to provide for effective participation on an equitable basis of students attending nonpublic schools in such projects.

Federal Government Responsibilities

On several occasions in testimony before this and other Congressional Committees, we have recommended the appointment of a policy level nonpublic school official in the U. S. Office of Education. A similar recommendation was made by the President's Panel on Nonpublic Education in its Preliminary Report in 1971. This recommendation was essentially repeated in the Panel's final report, Nonpublic Education and the Public Good, issued in 1972 which stated that "one of the panel's first recommendations called for creation of a new structure within the U. S. Office of Education to deal directly with nonpublic schools and to make effective recommendations to top officials in the Department of Health, Education and Welfare." The recommendation has also been made in the 1973 Report of the National Advisory Council on the Education of Disadvantaged Children. Pertinent sections of that Report have been submitted for inclusion in the Record.

The U. S. Office of Education responded to the initial recommendation of the President's Panel on Nonpublic Education by appointing a Coordinator of Nonpublic Educational Services late in 1971. The services of the Coordinator's office have been effectively utilized by nonpublic school officials. As a result of the relatively low level position of this official in the HEW/OE bureaucracy, however, the services offered have been characteristically informational. This office, at this level, cannot do the job.

A new post should be created in either the Department of Health, Education and Welfare or the Office of Education--a Deputy Assistant Secretary for Nonpublic Education in the Department of Health, Education and Welfare, or a Deputy Commissioner for Nonpublic Education in the Office of Education. Such an official would participate in policy development and planning and would provide liaison between the nonpublic schools and the federal government. He would be able to ensure that regulations are clearly written. He could establish a system of monitoring nonpublic school participation in federal education programs and help to create the necessary attitudinal climate to ensure that our opportunities to participate are adequate. The nonpublic schools would then have an advocate within the federal structure which they do not have now despite the mandated eligibility of nonpublic school students for participation in many programs. The need for such a post is illustrated by our preceeding testimony, particularly with regard to the problems we have reported concerning Titles III and VII.

In December, 1972, the U. S. Office of Education issued a policy statement, "Responsibilities for Meeting Nonpublic Participation Requirements in Federal Programs," to Chief State School Officers and Nonpublic School Administrators urging steps to ensure equitable participation of nonpublic school students in federal programs for which they are eligible. A copy of this statement has been submitted.

According to the statement, the "U. S. Office of Education has a responsibility to assure that the benefits of all programs for which nonpublic school children are eligible are made fully available to such children." Please note that according to the memorandum, the obligation incumbent on every federal program officer to implement legislation is clearly spelled out. "Each federal program officer is expected to assess the implementation of this policy in carrying out the functions of review, approval, monitoring, and evaluation, and to take appropriate action in situations where nonpublic participation is found to be other than in accordance with the requirements of the law." At the state level, the Chief State School Officer is charged with "assuring that the level and quality of nonpublic participation fully and fairly meet the requirements of the applicable federal programs." Several states have designated officials in the state educational agencies to ensure effective participation of eligible nonpublic school students in federal programs.

We applaud this effort, however modest. With the issuance of the memorandum, the Office of Education has taken a step forward on this important issue. We hope that the Office of Education will take seriously its determination "to achieve that degree of participation of eligible nonpublic school students which is required by law."

Education Special Revenue Sharing

In testimony before this Subcommittee in 1971, the United States Catholic Conference expressed its opposition to the enactment of the Administration's Education Special Revenue Sharing Bill unless a number of significant changes were incorporated. The Better Schools Act of 1973, submitted by the Administration, did not include the recommendations made by the U.S. Catholic Conference and our position on this legislation has not changed from the position taken in 1971.

Consolidation of Categorical Programs

The U.S. Catholic Conference has taken no position on the merits of consolidation of present categorical programs. Any consolidation, however, should include adequate provision for the effective participation on an equitable basis of nonpublic school children. An example of a provision that would ensure equitable participation is Section 807 of H.R. 69 which was recently reported from the General Subcommittee on Education of the U.S. House of Representatives.

It is our understanding that the Administration proposes to consolidate the Vocational Education Act as part of an overall consolidation of elementary and secondary education programs. Provision has been made for the participation of eligible nonpublic school children and teachers in three sections of this Act. These are Part B, Section 122 (a)(4)(A), establishing programs for low income communities and for areas with high concentrations of youth unemployment and school dropouts; Part D, exemplary programs; and Part G, Cooperative Vocational Education Programs.

In all of these programs one hundred percent federal funding is provided in the present legislation which is a necessary condition in these programs for ensuring the equitable participation of eligible nonpublic school children and teachers.

We do not take any position on the merits of consolidating the Vocational Education Act. Any consolidation, however, should retain the existing provisions to ensure the participation of eligible nonpublic school children and teachers. These three programs should also continue to receive one hundred percent federal funding.

School Finance

In any legislation providing general aid to elementary and secondary education as well as any legislation providing for the equalization of school finance, the U.S. Catholic Conference feels that such legislation should reflect the following principles with regard to nonpublic school participation.

1. All elementary and secondary school children should be counted equally in determining the amount of federal aid to be provided.
2. The amount of federal aid provided for nonpublic school children should be proportional to the number of such children in the school population as a whole.
3. The kinds of services provided should be limited to those which are constitutionally permissable.
4. A bypass provision should be included to ensure participation of nonpublic school children in those states which are prohibited by law or where there has been a substantial failure to provide

these services and to ensure nonpublic school participation in those school districts which for some reason do not participate in the federal program.

Anti-busing Legislation

The United States Catholic Conference has often pointed out that the issue of equal educational opportunity is a moral one, closely related to the larger issue of racial equality. In securing the right of all children to equal educational opportunity, busing, in some instances, is an essential tool. We are opposed to any legislation which would restrict the use of busing as an instrument to achieve these goals and to secure these rights. Enactment of such legislation would be a serious setback to the quest for racial justice and equal educational opportunity.

This concludes the testimony of the United States Catholic Conference.

Senator EAGLETON. Mr. Chairman, one of the panelists representing the U.S. Catholic Conference, Mr. Louis DeFeo, general counsel of the Missouri Catholic Conference, is here. I not only know Mr. DeFeo in his official capacity in the Missouri Catholic Conference, but it is my happy privilege that he served with me in Jefferson City, Mo., in the attorney general's office, for close to 4 years in the mid-1960's. He is an individual of esteem and prestige, and I know you as chairman of this committee will give his testimony great weight.

Senator PELL. Absolutely. Thank you very much indeed, Senator.

Mr. DEFEO. I have a prepared statement which has been submitted to the committee. I will not belabor you by reading that. I would like to make a few brief comments.

Senator PELL. Your statement will appear in full in the record at the conclusion of your testimony.

Mr. DEFEO. The intent of ESEA was clear that it should help all children based upon their needs whether or not they attended a public school or nonpublic school. The act, I think, has been good, but unfortunately in Missouri the intent of Congress has been frustrated.

It has been frustrated for two reasons. First of all, the failure of the State educational agency to comply with the requirements of the law, and secondly, the failure of the U.S. Office of Education to fully and promtply enforce the requirements.

Taking a look, first, at title I: Directives of the State Department of Education in Missouri limited educationally deprived children in nonpublic schools to the receipt of equipment loans, materials and supplies and to certain after hour programs. Dual enrollment was prohibited. The title I personnel was not allowed to go on to nonpublic school premises. In other words, the pupil could not get to the teacher and the teacher could not get to the pupil in regular school hours.

Since almost 75 percent of title I funding goes into personnel, nonpublic schoolchildren in Missouri were effectively eliminated from 75 percent of title I benefits.

Senator PELL. Could I interrupt you there. The new proposal of the administration is that the majority of title I funds, I think it is 75 percent, should go just for the teaching of mathematics and reading. I am not sure whether this would go for the personnel teaching or how it would go. Would this affect your testimony in any way?

Mr. DEFEO. Not what I have prepared to say. I would comment, Senator, that at times there are different needs within the non-public school than exist in the public school system. I know of a case, for example, in Kansas City where the non-public schools have an excellent remedial reading program, but were very deficient in science.

Senator PELL. When you concentrate in mathematics.

Mr. DEFEO. If it were concentrated in mathematics and reading, they would be deprived of a program, although they had a very great need.

Senator PELL. That is an exceptional case. I think in general the thrust is a correct one, because there have been a good many abuses with the funds having not been used for core studies. I see your particular problem there. I am not sure if it could be taken care of in general legislation.

But in general I would think that it would make sense. Anyway, carry on.

Mr. DeFeo. In April 1970, non-public school representatives in Missouri filed a complaint with the U.S. Commissioner of Education asking for a remedy to this misadministration of the title I program. Also contemporaneously a law suit was filed and in this case children who attend predominantly a black school in inner city Kansas City and others attending predominantly Mexican American schools in Kansas City filed a suit against the board of education on a misadministration of title I programs.

Regarding the complaint with the U.S. Office of Education, despite the substantiation of these complaints by USOE's own investigation, no definitive action has been taken on the complaint.

I would like as an example and illustration to call your attention to a finding from that official report cited on page 3 of my prepared statement, where the U.S. Office of Education found that the needs of the non-public school children were the same as the needs of the public school children in the particular project being investigated.

Services available to public school children were these:

The services of a teacher, the services of a teacher-aside, use of equipment and materials, speech therapy on an average of 1 to 2½ hours per week, active participation in fine arts programs, in addition his parents could participate in intensified parents' program, and the approximate per pupil cost of these services would be $180.75.

On the other hand, the non-public school children with the same identified needs received—could only participate in the use of equipment and materials and the fine arts programs. An obvious inequity.

The law suit of *Barrera* vs. *Wheeler*, also brought forth evidence of gross inequity in the administration of the title I program. As an illustration of that, I would like to call your attention to a table set out on page 8 of my prepared statement, particularly line item 3 in that table which sets forth the amount per pupil which was budgeted for title I programs in three public school districts of Missouri.

You note in district No. 1 that the public school children with educational deprivation—there was a budget of $224 for services to him. By comparison, non-public school children in the same district, there was budgeted $10 per child. In district No. 2, $244 per public school child, and only $30 for non-public school child.

District No. 3, $250 per public school child and $25 per non-public school child.

This is a representative sampling. This was not an isolated circumstance in the State of Missouri. The Eighth Circuit Court of Appeals found there were flagrant violations of title I and its requirements by the State educational officials. They held that the limiting of non-public school children to equipment loans and afterhour programs was indeed inequitable and not in compliance with title I requirements.

They mandated that personnel be made available to non-public schools of children with needs, if such personnel was available to public school children with educational deprivation. An injunction was issued against the State education officials in May of this year. They have applied to the U.S. Supreme Court for a writ of certiorari, and that application is presently pending. I have a copy of the *Barrera* decision of the Eighth Circuit Court of Appeals and also a copy of the injunction which was issued pursuant to the mandate of the 8th Circuit. Also we have additional copies for the Senators and staffs.

I would like to point out, although I have used some per capita figures to demonstrate the inequities and these were in evidence in the *Barrera* case, we are not taking the position that title I requires an equitable dollar amount of funds.

Turning now to the title III program in Missouri, again we find non-public school children with similar needs being excluded. As an example of the problem here, I would like to use the project operated by Lincoln University in Jefferson City, Mo. This was a reading clinic. There were three aspects to the program. First, was to diagnose the needs of the pupil, second, prescribe an educational remedy, and third, follow up with specialists from the clinic in the classroom with the pupil and the teacher to see that the prescription was effective, and if necessary, to modify it.

By limitations of the State educational officials, non-public schools were limited to afterhour participation. They were also limited as to title III personnel not coming in on the school premise.

What was the effect of these limitations? The diagnosis aspect of the program involved 8 hours of testing. In order for a non-public school child to receive this testing, he had to make some five to eight trips to the clinic. The project covered a radius of some 60 miles. Some of these schools were 30 to 35 miles from the clinic. So the non-public school parent, this child had traveled sometimes 3 to 400 miles to get this service, and in practical comparison he might as well have driven to Indianapolis, Ind., to receive the same service. You can see, I am sure, from the fatigue of travel, from the fatigue of having to go through a full school day or full school week before you could receive the service, from the obvious fragmentation of the testing program, it was impossible to do any effective service to non-public school children except for those who happened to live in the immediate vicinity of the clinic. They were de facto excluding from participation in the diagnosis aspect of the project.

The final aspect of the project which was of course very important was following up in the classroom with specialists from the clinic. Nonpublic schoolchildren were totally deprived of this part of the program. We might compare this to going to the doctor and the doctor prescribes a remedy, but the doctor never sees you again to see whether the remedy worked or whether you died.

In March 1972, nonpublic representatives in Missouri requested invocation of the bypass authority under title III. It was only after a persistent campaign at State and national levels that we were able to overcome bureaucratic delays, and the bypass was finally implemented in mid-February 1973, 11 months after the complaint was made to the U.S. Office of Education. Following the *Barrera* decision in the spring of this year, the State educational officials stated that they would not change in any way their administration of title III. The *Barrera* case delt with title I. Nonpublic school representatives then requested that USOE not approve the State plan for title III unless there was equitable participation for nonpublic schoolchildren.

Again after more months of delay, USOE has finally invoked the bypass provision in 14 projects in Missouri. During this whole time, nonpublic schoolchildren did not receive any benefits and even the children at Lincoln University that received them for a brief time from February 1973, are not now receiving the program because USOE allowed the bypass to lapse on July 1, 1973.

On the other hand, public schoolchildren received full services. The situation in Missouri has been that children who were in the first grade when this Congress passed ESEA had gone through an entire elementary education and not received the services that this Congress had intended.

In light of the *Barrera* decision and in light of the title III bypass, we can foresee improvement in the future. Basically my remarks, I think, have been negative, but I would like to conclude with emphasizing that, yes, ESEA is a good program. There are problems within it that need the assistance of this Senate.

We would request that this committee take whatever action it can to assure that there is equtiable participation in fact by needy nonpublic schoolchildren—that there be participation by nonpublic school representatives being totally involved in the identification of needy children, their special needs and the development of programs directed to their needs, that there by a bypass provision in title I, as there is in title III, and that you urge the U.S. Office of Education to fully and without delay enforce the requirements of the law.

Thank you.

[The prepared statement of Mr. Defeo and other material supplied for the record follows:]

Statement of

Louis C. DeFeo, Jr.
General Counsel
Missouri Catholic Conference
Jefferson City, Missouri

Submitted to the
Subcommittee on Education
Committee on Labor and Public Welfare
United States Senate

Wednesday, October 10, 1973
10:00 a.m.

Mr. Chairman and Members of the Committee:

I am Louis C. DeFeo, Jr., General Counsel of the Missouri Catholic Conference.

The Congress of the United States, in 1965, passed the Elementary and Secondary Education Act with the intent of aiding educationally deprived children in low-income areas. It was an effort to break the cycle of poverty, to break the cycle of educational deprivation. It was the clear intent of Congress that all children in need, whether attending public schools, nonpublic schools, or no school whatsoever, should be assisted.

Unhappily, I must state to you today that your intent has been obstructed and frustrated in the State of Missouri insofar as educationally deprived children in nonpublic schools are concerned. The breakdown between intent and effect has been caused by the failure of the state educational agency to provide equitable benefits to eligible children in nonpublic schools, and further by the failure of the United States Office of Education to enforce the laws, regulations and guidelines adopted thereunder.

By virtue of the mandate of the Eighth Circuit Court of Appeals, obtained after three years of litigation (which is still not finalized) there has been in the last year a significant improvement in Title I benefits to nonpublic school children in Missouri. However, even if equitable benefits are immediately obtained, they are coming almost eight years after the establishment of the program.

In October, 1965, Missouri State Board of Education adopted guidelines which prohibited both dual enrollment and the use of Title I personnel on nonpublic school premises during regular school hours. Educationally deprived children in nonpublic schools were relegated to the use of loaned equipment and after-hour programs. Approximately 75% of Title I funds are spent for personnel. Thus, educationally deprived children in Missouri were for years deprived of 75% of the benefits passed by Congress.

In January, 1970, the Attorney General of Missouri, in an official opinion, ruled that Title I personnel could be made available on nonpublic school premises during regular school hours. By arbitrary administrative fiat based on an alleged interpretation of State constitutional provisions (which interpretation was contrary to the Chief Legal Office of the State) the State Board of Education continued to refuse nonpublic school children the benefit of Title I personnel services.

In April of 1970, a letter of complaint was formally filed with the then United States Commissioner of Education enumerating the acts of state education officials in violation of Title I, ESEA. In October, 1971, based on its own investigation, the United States Office of Education issued a report which substantiated the complaints of injustice to nonpublic school children. I would like to read into the Record one of the findings and the summary and conclusions of this official report of the United States Office of Education. Finding No. 11 relevant to the Kansas City Public School District states:

> "It is reported that the needs of children in private schools are found to be the same as those in public schools. Inasmuch as Program Guide No. 44 points out that the high priority needs of private school children will be met with services that are comparable in scope and quality to those provided to meet the high priority needs of public school children, it is interesting to note that an educationally deprived child with special educational needs who attends a public school could receive the following benefits from Title I funds: (a) the services of a teacher, (b) the services of a teacher-aide, (c) use of equipment and materials, (d) speech therapy on an average of one to two an half hours per week, (e) active participation in Fine Arts program, (f) in addition his parents could participate in intensified parents program, (g) the approximate per pupil cost of these services would be $180.75.
>
> "All of these services (with the exception of the Fine Arts program) would be provided for the most part

> during the regular school day, on the same premises as the regular program. The educationally deprived children attending private schools could participate in only the use of equipment and materials and the Fine Arts program."

The conclusion of the United States Office of Education report states as follows:

> "While the special needs of the educationally deprived private school children are basically the same as the special needs of the educationally deprived public school children, the data reported indicates that the services available to the private school children are not comparable to the services available to the public school children...."

The conclusion goes on to state:

> "The large discrepancy between per pupil expenditures for private school children from Title I funds compared to the per pupil expenditure for public school children, while not an absolute criteria, does provide an indication that private school children are not receiving the range and intensity of services which would amount to genuine opportunities to participate."

Despite the clear violations of the law and regulations, to this date, the United States Office of Education has taken no definitive action against the State Board of Education for its misadministration of the Title I program in regards to nonpublic school children.

In April, 1970, a suit was filed in the United States District Court for the Western District of Missouri at Kansas City, against the Missouri Commissioner of Education and State Board of Education by a class of educationally deprived nonpublic school children eligible for benefits under Title I, ESEA. At the time of the filing of the suit, it was estimated that these children had been deprived of $13 million of Title I benefits. The evidence in the case brought out gross inequities and treatment of educationally deprived children attending nonpublic schools. Several items will illustrate the point.

The State Department of Education had adopted a guide (known as Policy No. 2) which on paper stated that the per capita expenditure per public school child and the per capita expenditure per nonpublic school child should not vary more than 10%. On paper this sounds equitable. However, the evidence reveals that its application was highly inequitable. The State Title I Director in calculating per pupil expenditures in Title I programs automatically excluded all expenditures for personnel. Since the program is about 75% personnel, he was in effect, excluding 75% of Title I expenditures from his equation. The following is from the testimony of the State Title I Director concerning this suit.

"Q. Would you exclude the amount of money expended for personnel from your calculation of per capita expenditure because of this constitutional thing mentioned?

"A. At the nonpublic school, I don't follow.

"Q. Let's try some illustrations. Let's assume that there is a remedial reading program that the public school program includes teachers, teacher-aides, and equipment, materials and supplies, and that the nonpublic school program is operated by volunteers, not through Title I funds. As far as Title I funds, they would have equipment, materials and supplies. Let's say that the amount of equipment, materials and supplies expended for public and nonpublic were equal per capita, say $10 per child, now then, the amount of personnel in the budget--

and the answer interrupting: 'would be excluded'

"Q. --would be $200 per child for public school children, would you exclude this $200?

"A. In figuring the variance, yes.

"Q. The equipment is equal, therefore complies with Policy No. 2.

"A. Right."

Continuing at a later point in the testimony:

"Q. Let us go back to the hypothetical case we had a while ago, where $250 was expended per pupil in public schools and $50 was expended per pupil in nonpublic schools, but the equipment was equal and $50 of equipment was in public schools and $50 in nonpublic schools, and $200 was for personnel. You have earlier stated that you would just compare the equipment since the personnel is excluded.

"A. That is correct.

"Q. Would you regard this situation as being in compliance with federal regulations and guidelines we have just discussed regarding comparable participation?

"A. Yes."

A sampling of Title I applications approved by the State Board of Education further substantiated that educationally deprived children attending nonpublic schools were denied equitable Title I benefits. The chart below is based on the approved applications of a small rural school district and two metropolitan school districts in the State of Missouri. All these applications were for fiscal year 1972.

DESCRIPTION	Public School Dist. 1		Public School Dist. 2		Public School Dist. 3	
	PS	NPS	PS	NPS	PS	NPS
1. Percentage of educationally deprived children	91%	9%	64%	36%	94.6%	5.4%
2. Percentage of total Title I expenditures	99.5%	.5%	93%	7%	99.5%	.5%
3. Amount budgeted per pupil	$224	$10	$244	$30	$250	$25
4. Percentage of full-time certified staff	99.7%	.3%	100%	0%	100%	0%

In District No. 1, while 1,898 educationally deprived children attend nonpublic schools were allocated $20,736, or $10 per child, to improve their education, two people (the Director of Federal Programs for the District and his Associate) were sharing $28,596 in salaries!

The District Judge found there were inequities but denied injunctive relief on the basis that a mathematically equitable share of Title I funds for nonpublic school pupils could be achieved through after-hour and Saturday instructional programs.

On appeal, the United States Court of Appeals for the Eighth Circuit, reversed and remanded with instructions that an injunction should be issued against the State Board of Education immediately. In its opinion handed down March 16, 1973 (the case is styled Barrera v. Wheeler, reported at 475 F. 2d 1338) the Court of Appeals found that the State Board of Education had flagrantly violated the provisions of Title I and the regulations adopted thereunder. Pursuant to the Appellate Court's mandate, an injunction was issued May 9, 1973. The State Board of Education has applied to the United States Supreme Court for a Writ of Certiorari.

In summary, after long and trying effort, after three years of litigation which is still not final, educationally deprived children attending nonpublic schools in Missouri are just this year receiving a significant share of the benefits which Congress intended them to have in 1965. Although we can anticipate needy nonpublic school children receiving more equitable benefits in the future, the fact is that many educationally deprived children enrolled in the first grade of nonpublic schools in Missouri in 1965 passed through their entire elementary school life and graduated without any of the benefits which this Congress authorized and for which this Congress has annually appropriated millions of dollars.

Let us now take a look at the participation of nonpublic school children in Title III ESEA programs in Missouri.

The participation of nonpublic school children under Title III programs in Missouri has been worse than their participation in Title I. Many Title III projects are totally designed around public school needs. Others are designed so they are compatible with public school curriculum, but not with nonpublic school curriculum. The involvement of nonpublic school representatives in the planning and development of projects has been minimal at best.

In August, 1971, the Education Department of the Missouri Catholic Conference surveyed participation of Catholic schools in Missouri in Title III ESEA programs. The conclusions of this survey were: (1) there was an extensive lack of knowledge by Catholic school administrators of Title III. Eighty-four percent of those responding to the survey knew nothing or very little about Title III. (2) There was a general lack of program flexibility. Most programs were too narrowly developed, focusing on public school needs to be effective in a Catholic school curriculum, and (3) there are insufficient methods of accountability built into Title III to insure nonpublic school participation.

In December, 1972, the Conference began an inquiry into two Title III projects, one operated by Lincoln University at Jefferson City, Missouri. This project was primarily designed to diagnose reading deficiencies, to prescribe remedies and to work with teachers and pupils in overcoming the reading deficiencies.

Participation of private school children was restricted to outside regular school hours, from 8 to 9 o'clock in the morning, from 3 to 4 o'clock in the afternoon, or from 8 to noon on Saturdays. Many of the children who would participate live in rural areas. Jefferson City is a community of only 35,000 people. One private school was 35 miles away from the project site. Given such distances and the time restrictions imposed, nonpublic school children were de facto excluded from the project, except for those living in the immediate Jefferson City area.

It takes approximately 8 hours of testing to complete the diagnosis part of the project. Since private school children were limited to one hour a day or four hours on Saturdays, they were required to come as many as eight times to complete the test. For a child living 35 miles away from the clinic, assuming testing was completed in five days, he and his parents would have had to travel a total of 350 miles to complete the diagnosis which was available to the public school child during regular school hours and completed in a day and a half. Nonpublic school children were in effect required to travel a distance equal to the distance to Indianapolis, Indiana, in order to receive the same service. Limiting private school children to after hour programs also reduced the efficiency of the clinic. By limiting private school children to services after they had completed a full school day, the child was exhausted and was not psychologically prepared to be properly diagnosed and to receive help from the clinic. Also, services for nonpublic school children were obviously fragmented and continuity in approaching the child and identifying his deficiencies was virtually impossible. Nonpublic school children were confined to this absurd time schedule because of regulations of the State Board of Education.

After diagnosis of the need and prescription of the remedy, the project provided follow-up in the classroom or if necessary at the University Clinic by specially skilled project staff. Public school children received this service but nonpublic school children with the same needs were totally excluded from this service by limitations imposed by the State Board of Education.

The project director at Lincoln University was interested in the needs of all children and desired to help the nonpublic school children as well as the public school children. (The staff of Lincoln University, a predominantly black institution, were especially sensitive to the evils of discrimination.) Thus, he requested approval from the State Department of Education to provide nonpublic school children services during regular school hours. The State Title III Director stated that it was "not permissible for project personnel to work with nonpublic school students during regular school hours at any location."

Thereafter in March, 1972, nonpublic school administrators in the Jefferson City area, supported by the Title III Director at Lincoln University, formally requested the United States Commissioner of Education to invoke the bypass authority of Title III. Nearly three months later, the United States Commissioner formally requested the State Commissioner of Education to investigate the situation and report.

When no apparent determinative action appeared to be occurring, nonpublic school representatives began a persistent campaign at state and national levels in order to get results. They undertook their own investigation and reported it to the Commissioner. Finally, on October 30, 1972, the United States Commissioner informed the State that he intended to invoke the bypass. However, it was not until mid-February, 1973, that Title III services were actually made available to nonpublic school children. It took nearly twelve months of persistent effort by nonpublic school representatives to overcome the bureaucratic delay and shuffling which obstructed the participation of nonpublic school children in this project.

In his notice to the State Commissioner of Education, on October 30, 1972, the United States Commissioner indicated that he was invoking the bypass in the Lincoln University and another project in issue and "all other similar projects." Yet today, over 18 months after the initial request for invoking the bypass, nonpublic school children in Missouri are still not receiving equitable Title III benefits in other projects, and even in regards to the Lincoln University project, USOE allowed the bypass to expire on July 1, 1973, and the children are not now participating in that project.

Shortly after the Barrera decision which held that nonpublic school children were entitled to the services of Title I personnel during regular school hours and on their regular school premises if such services were so provided to public school children, nonpublic school representatives inquired of the State Commissioner of Education as to whether personnel under Title III would be made available to nonpublic school children. The state responded that the State Plan for Title III would continue to limit nonpublic school participation to outside of regular school hours. Thereupon, in July, 1973, nonpublic school representatives requested the U. S. Commissioner of Education to withhold approval of the State's Title III Plan until eligible nonpublic school children were provided equitable benefits.

Finally, on September 7, this year, the U. S. Commissioner notified the State that he intended to invoke the bypass provision of Title III in 14 Missouri projects. However, eligible nonpublic school children even in these 14 projects still have not received services although eligible public school children have received services without interruption.

We have heard unofficially that arrangements for services will be made by the end of October and we hope that there will not be further delays. But even if the services were provided today, the children have been denied the benefits intended by Congress for some eight years since its passage and some 18 months since the formal request was made for invoking the bypass authority.

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 72-1440

Anna Barrera, et al., Appellants, v. Hubert Wheeler, et al., Appellees.	Appeal from the United States District Court for the Western District of Missouri.

Submitted: January 9, 1973.
Filed: March 16, 1973.

Before Lay, Heaney and Stephenson, Circuit Judges.

Lay, Circuit Judge.

We are presented on this appeal with significant questions relating to the lawful programming and proper allocation of funds to educationally deprived school children, both public and private, under Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. §§ 241a-241m, 242-244 (1972).[1]

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[1] The declared purpose of Title I is "to provide financial assistance . . . to local educational agencies serving areas with concentrations of children from low-income families to expend and improve their educational programs by various means . . . which contribute particularly to meeting the special educational needs of educationally deprived children." 20 U.S.C. § 241a (1972).

The plaintiffs, suing individually and on behalf of their minor children, are parents of educationally deprived children who attend non-public schools in the state of Missouri. This class suit was commenced on April 6, 1970, in the United States District Court for the Western District of Missouri against the State Commissioner of Education and the eight members of the Missouri Board of Education. The plaintiffs claim that Title I funds are being arbitrarily denied to non-public school children in Missouri. In seeking injunctive relief plaintiffs assert violations of the First and Fourteenth Amendments and a denial of their civil rights under 42 U.S.C. § 1983.

Plaintiffs originally prayed for an injunction restraining defendants from continued violations of the Act as well as for an accounting of misapplied funds totalling over $13 million received and expended from 1966 through 1969. The trial court initially dismissed plaintiffs' action because of their alleged failure to exhaust administrative remedies and because it believed the federal court should abstain from exercising jurisdiction since the case involved unsettled questions of state law. This court held these findings to be erroneous and reversed and remanded the case to the district court for trial. *Barrera* v. *Wheeler*, 441 F.2d 795 (8 Cir. 1971). Upon remand of the case plaintiffs filed an application for preliminary injunction on October 12, 1971. In a pretrial order on January 18, 1972, the trial court ordered a separate trial as to issuance of the injunction and limited the issues as follows:

> 1. Whether Title I, ESEA, and the criteria established thereunder by the United States Commissioner of Education, requires that educational benefits provided by Title I be made available to educationally deprived children attending private schools on a basis

that is equitable in quality, scope and opportunity, to those available to educationally deprived children attending public schools and that there must be an equitable sharing of educational resources provided by Title I so that the amount expended for each Title I project as to an educationally deprived child attending a private school be as nearly equal as possible to the amount so expended as to each educationally deprived child attending a public school;

2. Whether the defendants may be excused from complying with the requirements of Title I, ESEA, and the criteria established thereunder by the United States Commissioner of Education, relating to the participation of educationally deprived children attending private schools, by reliance upon any interpretation of Missouri state constitutional provisions, statutes, regulations or state court decisions; and

3. Whether it is lawful to make public personnel, who are employed to implement Title I projects, available on private school premises during regular school hours in order to provide special services to educationally deprived children attending private schools.

Upon trial of those issues the district court, in an unpublished opinion, denied injunctive relief and held that whether Missouri state law "prohibits the use of *any* money" for teachers to be employed in private schools was not necessary to be decided in the case. The court concluded that although there undoubtedly has been inequitable expenditures of Title I funds between educationally deprived children in public and non-public schools in some local school districts, such inequity could be rectified by private school authorities requesting their "equitable share of dollar aid" for private school pupils to attend after-school and summer school instructional programs.[2]

We conclude that the district court's holding does not properly meet plaintiffs' lawful challenge and fails to properly interpret Title I in conformity with the Act's intended purpose. We reverse and remand with directions to grant certain equitable relief.

TITLE I AND ITS REGULATIONS

In 1965 Congress recognized that there were over five million children living in families whose income was less than $2,000 a year.[3] The adverse poverty of these children was found to lead directly to educational neglect resulting oftentimes in human frustration, delinquency and crime. Congress further realized that the impact of poverty and financial hardship was not confined solely to public school children. Consequently, when Title I was drafted Congress expressly required the inclusion of non-public school children by conditioning any grant upon the proviso that:

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[2] The trial court further found:

> "Title I clearly does not mandate the assignment of teachers paid by Title I funds to nonpublic schools. The legislative history of the Act demonstrates that such an intention was completely disavowed by every proponent of the bill. It is also clear that students in nonpublic schools can receive their equitable mathematical share of the funds available in after-school or summer school programs. In small school districts the furnishing of visual aids and mobile equipment could very easily furnish the equitable share of dollar aid.
>
> "There is no evidence in this case that the local school boards have refused to consult with nonpublic school authorities in preparing their applications for Title I funds. Similarly, there is no evidence that any applications for Title I funds on an equitable basis for nonpublic school students have been denied at the local or state level except those requesting salaried teachers in the nonpublic school."

[3] It has recently been projected that with the raising of the income ceiling there are now over 20 million children qualified under Title I. See note 12 infra.

> "[T]o the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency has made provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate . . . ." 20 U.S.C. § 241e(a)(2) (1972).

The Act made it the strict responsibility of the local educational agency to plan and administer programs that would meet the particularized needs of all educationally disadvantaged children.[4] Thus, the undisputed purpose of Title I was to benefit the educationally deprived child whether attending a public or a non-public school.[5]

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[4] The present statute, 20 U.S.C. § 241e, reads in part:

> "(a) A local educational agency may receive a grant under this part for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—
>
> "(1) that payments under this part will be used for programs and projects (including the acquisition of equipment, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low income families and (B) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs . . . ."

The procedure for determining the funds payable to a local school district includes both public and private school children and is presently calculated according to the following formula:

a/2 x b = Dollars payable to local school district

a = Average expenditure per pupil in the state

b = Number of children age 5-17 coming from families with annual incomes of less than $3,000 ($4,000 for fiscal year ending June 30, 1973).

See 20 U.S.C. § 241e (1972); H.R.Rep. No. 143, 89th Cong., 1st Sess. 3 (1965).

[5] As both the Senate and House Reports state, the Act anticipates "broadened instructional offerings under publicly sponsored auspices which will be available to elementary and secondary school students who are not enrolled

Upon passage of the Act the United States Commissioner of Education provided by detailed regulation that educationally deprived children in private schools be afforded "genuine opportunities" to participate in Title I programs "comparable" to the programs available in public schools.[6] In March, 1968, the Commissioner set out revised criteria for the approval of Title I applications based upon the law and the existing regulations which stated:

> "The applicant's assessment of needs of children at various grade and age levels must include the children in the eligible public school attendance areas who are enrolled in private schools. This assessment is to be carried out in consultation with private school authorities and to provide the basis for (a) deter-

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in public schools." S.Rep. No. 146, 89th Cong., 1st Sess. 12 (1965). See also H.R.Rep. No. 143, 89th Cong., 1st Sess. 7 (1965). This "child benefit theory" was, therefore, one of the basic premises supporting the enactment of Title I. See generally 111 Cong.Rec. 5743, 5756-5758, 7309 (1965) (remarks of Representatives Perkins and Carey and Senator Morse). Similarly Title II of the ESEA provides all school children with text books and other instructional services and materials. Other provisions of the Act, Titles III, IV and V, provide direct aid to public school authorities for model programs, for research and for grants designed to strengthen the state departments of education.

[6] Section 116.19 of the regulations states in part:

"(a) Each local education agency shall provide special educational services designed to meet the special educational needs of educationally deprived children residing in its district who are enrolled in private schools. Such educationally deprived children shall be provided genuine opportunities to participate therein consistent with the number of such educationally deprived children and the nature and extent of their educational deprivation. The special educational services shall be provided through such arrangements as dual enrollment, educational radio and television, and mobile educational services and equipment. . . .

"(b) The needs of educationally deprived children enrolled in private schools, the number of such children who will participate in the program and the types of special educational services to be provided for them, shall be determined, after consultation with persons knowledgeable of the needs of these private school children, on a basis comparable to that used in providing for the participation in the program by educationally deprived children enrolled in public schools.

"(c) The opportunities for participation by educationally deprived children in private schools in the program of a local educational agency under Title I of the Act shall be provided through projects of the local mining the special services in which private school children will have genuine opportunities to participate, and (b) selecting the private school children for whom such services are to be provided.

"The needs of private school children in the eligible areas may require different services and activities. *Those services and activities, however, must be comparable in quality, scope, and opportunity for participation to those provided for public school children with needs of equally high priority.* 'Comparability' of services should be attained in terms of the numbers of educationally deprived children in the project area in both public and private schools and related to their specific needs, which in turn should produce an equitable sharing of Title I resources by both groups of children." Commission of Education, Title I Program Guide No. 44, 4.5 (1968).[7] (Emphasis ours.)

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educational agency which furnish special educational services that meet the special educational needs of such educationally deprived children rather than the needs of the student body at large or of children in in a specified grade. . . .

"(d) Any project to be carried out in public facilities and involving a joint participation of children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid classes which are separated by school enrollment or religious affiliation of the children.

"(e) Public school personnel may be made available on other than public school facilities only to the extent necessary to provide special services (such as therapeutic, remedial, or welfare services, broadened health services, school breakfasts for poor children, and guidance and counseling services) for those educationally deprived children for whose needs such special services were designed and only when such services are not normally provided by the private school. The application for a project including such special services shall provide assurance that the applicant will maintain administrative direction and control over those services. . . . Provisions for special educational services for educationally deprived children enrolled in private schools shall not include the paying of salaries for teachers or other employees of private schools, except for services performed outside their regular hours of duty and under public supervision and control, nor shall they include the using of equipment other than mobile or portable equipment on private school premises or the constructing of private school facilities." 45 C.F.R. § 116.19 (1972).

[7] This guideline is presumably based in part on Section 116.18(a) of the regulations which reads:

"(a) Each application by a State or local educational agency for a grant (other than one for a planning project) must propose projects

We think it clear that the Act and the regulations require a program for educationally deprived non-public school children that is comparable in quality, scope and opportunity, which may or may not necessarily be equal in dollar expenditures to that provided in the public schools. Although the district court originally phrased the issue in terms of "quality, scope and opportunity," it nevertheless based its opinion on an "equitable" funds standard. We, therefore, find the district court's ruling to be erroneous in holding that the use of Title I funds by the Missouri Board of Education meets proper standards and find that plaintiffs are entitled to equitable relief.

TITLE I IN MISSOURI

In the Kansas City, Missouri, school district where the plaintiffs reside, approximately 11,000 elementary and secondary students are eligible for Title I programs. Because of the limited funding and the wide disbursement of children, only about 7,000 public school pupils were enrolled in Title I programs. The number of educationally disadvantaged children in the five principal private schools in Kansas City was estimated at 355 (4.72 per cent of the 7,000 public school pupils receiving aid). These figures for the non-public schools are only estimates because (1) the income and personal records of private school parents were not readily available to the public schools; (2) the non-public schools were not centrally organized and had

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of sufficient size, scope and quality as to give reasonable promise of substantial progress toward meeting the needs of educationally deprived children for whom the projects are intended." 45 C.F.R. § 116.18(a) (1972).

See also 20 U.S.C. § 241e(a)(1) (1972); 45 C.F.R. § 116.19 (1972).

to be dealt with separately; and (3) the public and non-public school officials notoriously failed to cooperate among themselves.

Almost the entire Title I program in Kansas City is devoted to remedial reading taught in the public schools during the regular school day for disadvantaged public school children only. Outside of equipment and materials provided to the private schools, the one program available under public school auspices for educationally disadvantaged non-public school children was a summer school remedial reading class. In the summer of 1971 approximately 112 private school children and 2,500 public school children participated. With this experience both the public school and private school officials admitted at trial that summer school was a poor substitute for regular day school classes.

The Kansas City public schools have set a $250 per pupil guideline for Title I assistance which under present funding would allow for approximately 8,050 participants. The largest share of the Title I appropriations (approximately 65 per cent) is spent on teachers and teacher aids. About twenty teachers and 100 to 150 teacher aids are presently employed in eighteen elementary and four secondary schools in Kansas City. On several occasions in recent years the non-public schools have requested teachers and teacher aids to come to the private school and teach special remedial classes during part of the regular school day. All such requests have been denied by the public school officials, and the private schools have not, as yet, requested any other assistance except equipment and materials. As a consequence the disparity in Kansas City between expenditures for private and public school children in Title I has been $50 as compared to $275. Recently the public school officials have given the non-public school children their "equitable" share of funds all in monies for equipment and materials.

The practice in Missouri as a whole in prior years has been to give comparable equipment, materials and supplies to eligible private school children, but to exclude any sharing whatsoever of personnel services. Most Title I public school programs in Missouri involve remedial reading, speech therapy and special mathematics classes, thus the largest proportion of the cost of these projects involves salaries for teachers and teacher aids. After the first two years of Title I, expenditures in Missouri for instructional personnel have run from 65 per cent to 70 per cent of the total grant. The remaining funds are used for equipment and materials, health and counseling services, transportation, and plant maintenance. One difficulty with providing only equipment and materials is that even minimal sharing of expenses for equipment and materials soon reaches a saturation point; in fact, the state guidelines permit only 15 per cent of any appropriation to be spent on equipment and instructional materials. The result of this plan for the deprived private school child has been to create a disparity in expenditures in many school districts ranging from approximately $10 to $85 approved for the educationally disadvantaged private school child to approximately $210 to $275 allocated for the deprived public school child.[8] From the facts presented the trial

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[8] Title I programming within Missouri school districts flagrantly breeches the state commissioner's own statement of policy as revised in March of 1971 which reads in part (emphasis their own):

"The following procedure should be used in determining the private school participation in Title I activities:

"1. Determine the special educational needs of *all* educationally deprived children residing in eligible Title I attendance areas in the public school district. At least one objective measure-court itself recognized that Missouri's "interpretation of Title I has resulted in an undoubtedly inequitable expenditure of Title I funds between educationally deprived children in public and nonpublic schools in some local school districts in the state."

A few school districts in Missouri have attempted to remedy this disparity by providing, in addition to the projects conducted during regular school hours for deprived public school children, Title I programs in the public schools which are open to all educationally deprived children after regular school hours and in the summer. The opinion held by most educators was that these programs were not nearly as successful as the programs conducted during the regular school hours for public school children. The evaluation specialist of the Kansas City School District, Edmund Downey, and the principal of a parochial school in Kansas City, Sister Agnes Marie

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ment must be used in making this determination. Subjective measurements may also be used.

"2. Determine the *most pressing* special educational needs of *all* educationally deprived children residing in eligible Title 1 attendance areas in the school districts. . . .

"3. Develop a program that will meet the most pressing special educational needs of *all* educationally deprived children residing in the school district. This is the responsibility of the local public school district *after* consultation with persons knowledgeable of the needs of the private school pupils. The *same level of educational deprivation* should be used for determining eligible private school children as is used for determining eligible public school children.

"4. Determine the extent of pupil participation in the Title I, ESEA, program that Title I, ESEA, funds will allow. Private school pupils are entitled to receive the same consideration as public school pupils. This does not mean that private school pupils will necessarily engage in the same activities as public school pupils. Title I Federal Regulations and Missouri State Law restrict the activities for which Title I funds may be expended.

"5. Services for private school pupils participating in the Title I program must be comparable in quality and scope to those provided public school pupils participating in the program if

Hagen, testified that in their opinion, even with these attempts at giving assistance, disadvantaged non-public school children in Kansas City were not receiving comparable educational services under Title I.[9]

COMPARABILITY

There are practical as well as legal considerations when assessing the qualitative scope of a "comparable" Title I program for deprived private school children. For example, in Kansas City the estimated 355 non-public school students who qualify for aid under Title I are scattered throughout five elementary and secondary schools. Obviously the same type of remedial help cannot be programmed for an extremely small number of needy children located in a private school as can be instituted in a public school where a large number of children may be reached.

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the nature and extent of educational deprivation and the special educational needs are the same.

. . . . .

"9. Title I, ESEA, funds must be used to supplement and not supplant private school funds.

. . . . .

"11. Projects conducted in private schools must be of sufficient size, scope and quality.

"12. The average cost per pupil enrolled in a private school and participating in a Title I, ESEA, program and the average cost per pupil enrolled in a public school and participating in a Title I, ESEA, program will be used as a guide in making State Department of Education approval. If the variance is greater than 10 per cent (more or less) justification will be requested before making approval." Missouri Department of Education, Policy No. 2, Participation of Private School Children in Title I Activities (1971).

The variance in average cost per pupil for public and private Title I recipients in Missouri far exceeds the state's own 10 per cent guidelines.

[9] The Missouri State Coordinator of the Elementary and Secondary Education Act referred in his testimony to a letter Missouri received from the United States Commissioner of Education informing the state that the St. Louis, Kansas City and Cape Girardeau programs did not comply with the regulations regarding the participation of private school children in Title I projects.

Furthermore, there are many Title I programs which can be utilized in public schools which would not be constitutionally permissible on private school premises. For example, using Title I funds to reduce the general pupil-teacher ratio is permissible in a public school within a low-income area but constitutionally impermissible in a similarly situated private school. However, this concern misses the Congressional mark since Title I programming contemplates for the private pupil only "*special* educational services and arrangements . . . in which such children can participate."[10] Thus, camparability in size, scope and opportunity cannot necessarily be measured in terms of total similarity. It is only in the area of "special . . . services" where the program need be comparable, provided it is determined by the local educational agency that the needs of the children are similar. Furthermore, it is inaccurate to attempt to equate Title I programs on a

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[10] 20 U.S.C. § 241e(a) (2) (1972) (Emphasis ours). See the remarks of Representatives Carey and Perkins, the manager of the House Bill, during House debates where they emphasize the importance of the word "special:"

> "Mr. GOODELL. . . . If the public school officials with Federal money wish to put a public school teacher in a private school to teach any subject, I would like to have a clear legislative history as to whether it is permitted in this bill.
> "Mr. CAREY. If the gentleman phrases his question 'any subject,' the answer would be 'No,' because that would include all subjects.
> "Mr. GOODELL. What subjects then would be permitted?
> "Mr. CAREY. 'Special' is the key word. The gentleman knows that the word 'special' is in the bill. These are special instructional services. Those that are special are not general. . . . What is special would be determined by pedagogy.
>
> . . . .
>
> "Mr. GOODELL. . . . I would like to ask the gentleman from Kentucky if that is his answer, just as a matter of getting the legislative history.
> "Mr. PERKINS. The gentleman has answered the question very clearly.
>
> . . . .
>
> "Mr. PERKINS. My answer is no as to providing any teaching services to a private institution. The key here is the extension of special educational services to deprived children under public auspices and arranged for supervised and controlled by public authority."
> 111 Cong.Rec. 5747-5748 (1965).

"fair-sharing" basis which requires an equivalent pro-rata distribution of funds among public and private school students. Fair-sharing of funds is not the intent of Title I.[11] When appraising what is equitable and comparable, the dollar amount allocated can serve only as an indicia of compliance or noncompliance. In fact, recent federal guidelines allow a greater amount of Title I funds to be spent on school areas with higher concentrations of children from low-income families in order to obtain the maximum effect.[12]

The grant of Title I funds is based solely upon the "need . . . determined" of the individual child. Consequently some children may require speech therapy or special instruction in the English language[13] whereas others may demonstrate no particular need at all. This need factor may vary between educationally disadvantaged public school children as well as between deprived public and private school children.[14]

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[11] In 1969, the National Advisory Council on the Education of Disadvantaged Children, which reports to the President and Congress each year on the progress of Title I, found:

> "[S]ome of the nonpublic school officials interviewed, unhappy at the relatively low level of participation by disadvantaged pupils enrolled in their schools, spoke repeatedly of not receiving their 'fair share' of the city's Title I funds; occasionally they mentioned a 'fair share' percentage coinciding with the percentage of nonpublic school children in the city. Of course, the law intends no such 'sharing' or division of funds. Further, the number of disadvantaged nonpublic school children was not proportionate to the number of disadvantaged public school children in any city in the present study. The phrase 'fair share' as used above may be convenient shorthand, but such usage is inconsistent with the intent of the law." National Advisory Council on the Education of Disadvantaged Children, Annual Report to the President and the Congress 38 (1969).

[12] As the National Advisory Council on the Education of Disadvantaged Children stated in its letter to the President and the Congress on March 31, 1972:

> "The Council notes that title I is now serving 7.5 million disadvantaged children, 1.5 million fewer than in 1969. This decrease is due to the concentration guideline, which directs Local Education Agencies (LEA's) to spend more on fewer children for maximum impact.
>
> "The most recent study which records the number of children living in school attendance areas with high concentrations of children from low-income families (the determining factor of eligibility for title I service) states that *20 million children* are living in these attendance areas.
>
> "This would suggest that approximately two-thirds of the children needing the extra services of compensatory education are not receiving title I services. The Council asks that you carefully consider this fact, and that neither the Executive nor the Legislative Branch of the Federal Government view with complacency the need to serve additional disadvantaged children." National Advisory Council on the Education of Disadvantaged Chlidren, Annual Report to the President and the Congress iii (1972).

The analysis of whether the program within the private school is comparable to the public school program lends itself more to the definition of what is not comparable rather than what is.[15] It is not a comparable program where the need for remedial services of the educationally deprived private school pupil is at least equal to that of the educationally deprived public school student and the only service provided to the private school child is the furnishing of equipment. It is not a comparable program to provide only after-hour and summer remedial instruction on neutral sites which are open to the needy private school child while offering the same services during regular school hours for deprived public school pupils, especially when the partial expense for transportation must be borne by the private school child who comes from a low-income family.[16] Of equal or greater significance is the fact that educational authorities believe such programs do not provide equivalent benefits nor do they successfully reach a significant number of the eligible students. Once the need of *all* qualified students is determined, the state or local educational agency must then show some reasonable justification, within the defined purposes of the regulations and the Act, for denying comparable services to eligible private school pupils. No showing has been made here.

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[13] The record discloses that Our Lady of the Americas school, a parochial school in Kansas City, has a student body that is 98 per cent Mexican-American with approximately 175 students eligible for Title I. These children are confronted with a language and cultural problem which must be overcome before they can ever be expected to understand and accomplish the prescribed studies for each grade. A program designed to meet the needs of these eligible non-public school students might necessarily require a different focus of attention resulting in less *or even greater expenditures.*

[14] Disparate allocations of funds may arise because the concentration of eligible children is frequently confined to certain geographic areas. Furthermore, the needs of qualified students may differ because of nationality or cultural backgrounds or because the local school district already has provided effective remedial aid to needy children. Sometimes disparity in allocation may arise where the local agency has failed to request sufficient funds or the private or public school has failed adequately to evaluate or report the eligible children and their needs.

[15] The late Professor Cahn wrote that justice is best defined by considering what injustice is. Cahn, Confronting Injustice 10 (1966).

APPLICABILITY OF STATE LAW UNDER TITLE I

The gross justification presented by the defendants for the dissimilarity of programs under Title I is that Missouri state law does not allow any shared or dual-time programs whereby the non-public school student can be brought into the public school during regular school hours to receive specialized instruction. Furthermore, the defendants argue that Missouri constitutional law, as well as the Constitution of the United States, prohibit the use of public teachers on private school premises. The defendants urge additionally that Title I does not contemplate the assignment of Title I teachers to non-public schools during the regular school hours. It is, therefore, contended that the only means by which non-public school students can receive teacher services under Title I is through the operation of some after-hour and summer instructional training.

The trial court agreed with the defendants' contention that the Act does not permit the assignment of public school teachers to non-public schools. Presumably the court's conclusion was drawn from the Senate House Reports which declare that the Act does not authorize funds for the payment of private school teachers. See S.Rep. No. 146, 89th Cong., 1st Sess. 11 (1965); H.R.Rep. No. 143, 89th Cong., 1st Sess. 7 (1965). However, plaintiffs make no claim that Title I funds should be paid to private school teachers nor do they argue that public school teachers should be assigned to non-public schools for the teaching of general secular classes. They readily concede that such an application of Title I funds would be a violation of the First Amendment. See generally *Lemon v. Kurtzman*, 403 U.S. 602 (1971); *Americans United for Separation of Church and State* v. *Oakey*, 339 F.Supp. 545 (D.Vt. 1972); cf. *Wolman* v. *Essex*, 342 F.Supp. 399 (S.D.Ohio 1972), aff'd, 93 S.Ct. 61 (1972); *Johnson* v. *Sanders*, 319 F.Supp. 421 (D.Conn. 1970), aff'd, 403 U.S. 955 (1971). And, of course, Title I must be read as comporting with constitutional requirements. See generally *Communications Assn.* v. *Douds*, 339 U.S. 382, 407 (1950), *United States* v. *C.I.O.*, 335 U.S. 106, 120-121 (1948); cf. *Singer Sewing Machine Company* v. *Brickell*, 233 U.S. 304, 313 (1914); *Port Construction Co.* v. *Government of the Virgin Islands*, 359 F.2d 663 (3 Cir. 1966). The district court overlooks, however, that the Senate Report does consider the use of public school teachers in the private school for restricted purposes:

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[16] The Missouri Constitution prevents the use of state funds for busing non-public school children, at least to the extent they are transported to and from the private school. See *McVey* v. *Hawkins*, 258 S.W.2d 927 (Mo. 1953). This objection cannot apply to children transported under Title I funds for instructional training. See discussion, infra at 26-29.

> "It is anticipated, however, that public school teachers will be made available to other than public school facilities only to provide specialized services which contribute particularly to meeting the special educational needs of educationally deprived children (such as therapeutic, remedial or welfare services) and only where such specialized services are not normally pro-

> vided by the nonpublic school." S.Rep. No. 146, 89th Cong., 1st Sess. 12 (1965).

The Senate and House debates also demonstrate that this limited use of public school teachers for specialized services was foreseen and intended by the managers of the Bill. 111 Cong. Rec. 5746-5748, 5758, 5979, 7309 (1965). Therefore, we find the district court's interpretation of Title I as involving a broad proscription of public teacher services in the private schools to be in error.

We come then to defendants' contention that this use of public school teachers in private schools is in violation of Missouri state law. In *Special District* v. *Wheeler*, 408 S.W.2d 60 (1966) (Judges Finch and Hyde dissenting on the dual-time holding), the Missouri Supreme Court specifically banned dual-time as a means of carrying out joint instructional programs for public and non-public school children.[17] The court held that the Missouri compulsory attendance law requires each child to remain in his regularly assigned school for a minimum of six hours.[18] In the *Wheeler* case the Missouri Supreme Court was also faced with the practice of public school teachers providing speech therapy for non-public school children on the private school premises. The Missouri court found this practice violated the Missouri Constitution by using public school funds for the education of private school pupils in derogation of the constitutional requirement that public funds "belonging to or donated to any state fund for public school purposes" be used for "establishing and maintaining free public schools, and for no other uses or purposes whatsoever." Mo.Const. art. IX, § 5.[19] Thus, dual enrollment is presently unlawful in Missouri by statutory interpretation and the use of "public monies" for sending public teachers into private schools for specialized instruction has been forbidden by state constitutional provisions.

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[17] Compare *State ex rel. School District* v. *Nebraska State Board of Education*, 195 N.W.2d 161 (Neb. 1972), cert. denied, 93 S.Ct. 220 (1972) (see opinions of Justices Douglas and Brennan in denial of certiorari.)

[18] In the states where dual enrollment programs have been conducted, the United States Commissioner of Education has found that teacher services are provided under Title I in a comparable and equitable manner. Title I specifically offers this method as one of the alternatives for complying with the Act, 20 U.S.C. § 241e(a)(2), and as the Commissioner has pointed out, this is one of the most feasible ways to achieve compliance. See generally La Noue, Church-State Problems in New Jersey: The Implementation of Title I (ESEA) in Sixty Cities, 22 Rutgers L. Rev. 219, 252 (1968).

After the *Wheeler* decision the Missouri State Board of Education promulgated two regulations relating to programs to be administered by local agencies under Title I. They read as follows:

> (a) ". . . . Therefore, shared time or dual enrollment between public and nonpublic schools would not be in conformity with state law. Programs operated in the public school for all children after regular school hours, on Saturday, and during the summer after close of the regular school term would be in conformity with state law."
>
> (b) "Special educational services and arrangements, including broadened instructional offerings made available to children in private schools, shall be provided at public facilities. Public school personnel shall not be made available in private facilities. This does not prevent the inclusion in a project of special educational arrangements to provide educational radio and television to students at private schools."

The state board has interpreted the proscription of public monies in the Missouri Constitution under the *Wheeler* decision and has thus concluded that Title I funds are also state public funds to be similarly proscribed. As a result of the board's regulations the local school districts have denied requests of non-public schools for the services of public school teachers in providing remedial training to their educationally disadvantaged children.

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[19] See also Mo. Const. art. I, § 7; art. IX, § 8.

Although dual enrollment has been precluded under Missouri law, except for the state board's regulations, the crucial question of whether the Missouri Constitution prohibits the use of *all* funds, regardless of the source, for sending public school teachers into the private schools for specialized programs has not been decided. The Missouri Attorney General for one has publicly disagreed with the State Board of Education's interpretation of the law.[20]

Plaintiffs discount the applicability of state law by asserting that since Title I is a federal act and since there exists a conflict between federal and state law, the supremacy requirements dictate that federal law controls, citing

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[20] In an opinion written in January, 1970, the Missouri Attorney General stated:

> "[F]ederal funds, not state funds or State Public School Fund moneys, will pay the teachers for services rendered in making certain services under the Title [illegible] Program available on the premises of a private school. The essential character of these funds is not changed from federal to state funds by the mere fact that the Missouri Legislature 'appropriates' them to the State Board of Education. The appropriation comes neither from 'General Revenue' (see for instance § 2.030, House Bill No. 2, Seventy-fifth General Assembly) nor from the 'State School Moneys Fund' (see for instance § 2.200, House Bill No. 2, Seventy-fifth General Assembly). These funds are appropriated on an open end basis from 'Federal Funds.'
>
> . . . .
>
> "We do not believe that an appropriation of this type converts federal aid into state aid, thereby making it subject to the Missouri constitutional provisions referred to above.
>
> . . . .
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> "It is the opinion of this office that the Elementary and Secondary Education Act of 1965 provides that, under certain circumstances and to the extent necessary, public school personnel, paid with federal funds pursuant to this program, may be made available on the premises of private schools to provide certain special services to eligible children and that Missouri law would not prevent public school personnel, paid with federal funds, from providing these services on the premises of a private school." Op. Att'y Gen. No. 26, 7-9 (1970).

See also *In Re Proposal C*, 185 N.W.2d 9, 22-24 (Mich. 1971).

Townsend v. *Swank*, 404 U.S. 282, 286 (1971); *Ivanhoe Irrigation Dist.* v. *McCracken*, 357 U.S. 275, 295 (1958); *Brown & Bartlett* v. *United States*, 330 F.2d 692 (6 Cir. 1964); *Matcovich* v. *Anglim*, 134 F.2d 834 (9 Cir. 1943). This approach, however, substantially ignores the legislative history of Title I which establishes that state policy and law shall govern the administration of these programs.[21] Moreover, Congress has emphatically declared in the act that federal control of programming, instruction and curriculum was prohibited,[22] and the Commissioner of Education has continually recognized that the grants under Title I must accommodate state law.[23]

Although state law is to be accommodated, the issue of whether Title I funds are state monies or federal funds must necessarily be decided by federal law. Cf. *United States* v. *93.970 Acres*, 360 U.S. 328, 332-333 (1959), and cases cited therein; *Enochs* v. *Smith*, 359 F.2d 924, 926 (5 Cir. 1966). Directly involved here is the interpretation of the funding process under a federal act. The Act itself makes it readily apparent that Title I appropria-

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[21] 111 Cong.Rec. 5743-5744, 5746, 5757-5758, 5972, 7623. See also Hearings on S. 370 Before the Subcomm. on Education of the Senate Comm. on Labor & Public Welfare, 89th Cong., 1st Sess., pt. 1, at 516, 518 (1965).

[22] Section 604 of the ESEA, Pub. L. No. 89-10, 79 Stat. 27, 57 (April 11, 1965), states:

> "Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system."

See 20 U.S.C. § 242(a).

[23] The Commissioner of Education's Handbook for State and Local School Officials sets forth the following discourse:

> "*State Constitutions and Statutes*
>
> "Many State departments of education found severe restrictions with respect to the kind of services that their respective State constitutions

tions are a federal grant made *in trust* to local school agencies within a state for the direct benefit of the educationally disadvantaged child. 20 U.S.C. §§ 241e, f, g (1972). The funds are not to be commingled with other "public funds" (45 C.F.R. § 116.24), and they are not to supplement funds that are already used for educational purposes in the state. 20 U.S.C. § 241c(e), 241g(c) (1972). See also 111 Cong.Rec. 5734, 7299 (1965) (remarks of Representative Perkins and Senator Morse). The *only* control the state board has over such funds is to channel them to the local agencies and to review the programs of the local educational agencies to make certain the programs are consistent with the Act and the Commissioner's regulations. A state cannot pass a law or interpret its own laws to say that a Title I grant is to be considered state funds or public funds for the maintenance of free schools. To do so would be to violate the spirit and the

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and statutes allowed them to provide to private school students, especially when those private schools were owned and operated by religious groups.

"The following list illustrates the kind of prohibitions encountered when State constitutions and laws are applied to Title I. The list is not exhaustive.

- Dual enrollment may not be allowed.
- Public school personnel may not perform services on private school premises.
- Equipment may not be loaned for use on private school premises.
- Books may not be loaned for use on private school premises.
- Transportation may not be provided to private school students.

Sometimes such prohibitions exist singly in a given State. Often, the prohibitions exist in combination.

"When ESEA was passed in 1965, each State submitted an assurance to the U. S. Office of Education in which the State department of education stated its intention to comply with Title I and its regulations, and the State attorney general declared that the State board of education had the authority, under State law, to perform the duties and functions of Title I as required by the Federal law and its regulations. While State constitutions, laws, and their interpretations limit the options available to provide services to private school students, this fact, in itself, does not relieve the State educational agency of its responsiletter of Title I. It seems clear that Title I, as involved herein, does not provide any state aid or any school aid to the state[24]—it is an act to provide educational services to those who qualify under the Act as educationally disadvantaged children.

This reasoning is not in conflict with the proposition that state law and policy must be accommodated under the administration of Title I. A state could conceivably pass a law that would prohibit the use of *any* Title I funds in a private school. Assuming such a law could overcome equal protection arguments,[25] the net effect would be that the state could not comply with the Title I requirement that comparable services be administered to educationally disadvantaged non-public school children. Under those circumstances, the state would not be entitled to a Title I grant and would have to make the "political" decision of whether to repeal the law or deprive all its educationally

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bility to approve only those Title I applications which meet the requirements set forth in the Federal law and regulations.

"A number of school officials realized that they could not submit the required assurance because of the restrictions applying to private school students which were operative in their States. The impasse was successfully resolved in one case by a State attorney general's opinion which held that State restrictions were not applicable to 100 percent federally financed programs. [New York]

"Other States have proposed legislation which would allow the SEA to administer Title I according to the Federal requirements. Still others have applied the restrictions of the State to Title I and have relied upon the initiative of school administrators to develop a program that would meet the Federal requirements." HEW, Office of Education, Title I ESEA Participation of Private School Children, *A Handbook for State and Local School Officials* pt. III, at 19-20 (1971) [hereinafter cited as Office of Education Handbook].

[24] Title I of the Higher Education Facilities Act of 1963, 20 U.S.C. §§ 711-721 (1964 ed. & Supp. V), does provide direct aid for construction of buildings and facilities at church-related colleges. This section has been held constitutional. *Tilton v. Richardson*, 403 U.S. 672 (1971).

[25] Cf. *In Re Proposal C*, 185 N.W.2d at 27-30.

disadvantaged children of the economic benefits of the Act. Cf. *Rosado* v. *Wyman*, 397 U.S. 397, 420-423 (1970).[26]

We conclude that although the administration of Title I must accommodate state law, Title I funds are federal funds with which state and local educational agencies cannot lawfully provide services for eligible public school children and at the same time deny comparable programs to eligible private school children by simply commingling such funds with proscribed state "public funds." More apropos to our discussion here is the provision within the Missouri Constitution which reads:

> "Money or property may also be received from the United States and be redistributed *together with public money of this State* for any public purpose designated by the United States." Mo. Const., art. III, § 38(a). (Emphasis ours.)

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[26] It would seem axiomatic that programming in the use of Title I funds must comply with the Act and be consistent with the Commissioner's regulations. The statute makes this clear. See 20 U.S.C. §§ 241e, 241f (1972). We emphasize that if state law prevents a state or local agency from compliance with Title I, then Title I expenditures cannot be manipulated to comply with state law. This would clearly be a case of the tail wagging the dog. Yet this is in essence what the state educational agency proposes and has been doing. The remedy provided for a state that will not or cannot under its own law allocate federal funds in compliance with the Act and the regulations is to have those funds withheld by the United States Commissioner of Education. See 20 U.S.C. § 241j (1972) 45 C.F.R. § 116.52 (1972).

The 1972 National Advisory Council on the Education of Disadvantaged Children has specifically recommended that the law be enforced against Missouri:

> "In order to receive title I funds, the State Attorney General must sign an assurance to the U.S. Commissioner of Education stating that all title I regulations will be observed, even if they conflict with State law. Yet with respect to three States—Missouri, Nebraska, and Oklahoma—the Office of Education is aware of noncompliance with the regulations, section 116.19, on service to children enrolled in non-public schools, and no enforcement action has been initiated.
>
> "*The Council recommends that any State which is not in compliance with section 116.19 be informed of the Commissioner's intention to enforce the law by the end of fiscal year 1972.*" National Advisory Council on the Education of Disadvantaged Children, Annual Report to the President and the Congress 29 (1972). (Emphasis theirs.)

Thus, we find that when the need of educationally disadvantaged children requires it, Title I authorizes special teaching services, as contemplated within the Act and regulations, to be furnished by the public agency on private as well as public school premises. In other words, we think it clear that the Act demands that if such special services are furnished public school children, then comparable programs, if needed, must be provided the disadvantaged private school child.

FEDERAL CONSTITUTIONAL PROBLEM

This then brings us to the defendants' final contention. They urge—all else failing—that public teacher service on private school premises would be unconstitutional under the First Amendment. The defendants rely on *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971), which held the direct subsidization of private school teachers in Pennsylvania and Rhode Island unconstitutional. Perhaps more closely related to this objection are *Wolman* v. *Essex*, 342 F.Supp. 399 (S.D.Ohio 1972), aff'd, 93 S.Ct. 61 (1972); *Americans United for Separation of Church & State* v. *Oakey*, 339 F.Supp. 545 (D.Vt. 1972); and *Johnson* v. *Sanders*, 319 F.Supp. 421 (D.Conn. 1970), aff'd, 403 U.S. 955 (1971). Although *Oakey* and *Sanders* would seemingly prohibit the use of public school teachers on private premises to teach general secular subjects, they are not directly controlling as to the suggested teacher service programs under Title I. As we have indicated, Title I contemplates public teacher services on private premises only for "specialized services which contribute particularly to meeting the special educational needs of educationally deprived children (such as therapeutic, remedial or welfare services) and only where such specialized services are not normally provided by the nonpublic school."[27]

Although we find these cases not *directly* controlling, we determine that it would be improper for us to pass on the constitutionality of an abstract program of remedial teaching services which are not properly before us. In doing so, we appreciate the constitutional question remains, but as a reviewing court, we must refrain from passing upon important constitutional questions on an abstract or hypothetical basis. *Thorpe v. Housing Authority of the City of Durham*, 393 U.S. 268, 284 (1969); *Alabama State Federation of Labor v. McAdory*, 325 U.S. 450, 461-462 (1945); *Housing Authority of the City of Omaha v. U. S. Housing Authority*, 468 F.2d 1, 10 (8 Cir. 1972), cert. denied, 41 U.S.L.W. 3447 (U.S. Feb. 20, 1973). This is what we would be doing if we decided this issue now.

We further observe that no particular program, curriculum or service is mandatory under the Act. S.Rep.

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[27] S.Rep. No. 146, 89th Cong., 1st Sess. 12 (1965). See also Cong.Rec. 5747-5749, 5758, 5979 (1965); 45 C.F.R. § 116.19(a), (e) (1972). The Commissioner's Handbook for State and Local School Officials recognizes this when it observes:

> "Most of the restrictions or prohibitions which apply to services for private school children refer to the manner in which the services are delivered. . . . The restrictions or prohibitions are:
>
> 1. The services provided with Title I funds must meet the needs of educationally deprived children and not the needs of the private school.
> 2. In any project where private school students participate along with public school students in public facilities, the classes may not be separated according to school or religious affiliation.
> 3. Public school personnel may perform services on private premises only to the extent necessary to provide special services for the educationally deprived for whose needs the services were designed.
> 4. The services which may be provided are limited to special services [citing the regulations in Section 116(e), "such as 'therapeutic, remedial, or welfare services, broadened health services, school breakfasts for poor children, and guidance and counseling services.' The list is meant to be illustrative and not exhaustive of the

No. 146, 89th Cong., 1st Sess. 11 (1965); 111 Cong.Rec. 7298 (1965) (remarks by Senator Morse). A local educational agency may request Title I funds for a variety of uses,[28] and none of these specific remedial programs are now before us. For now we can only assume that the U. S. Commissioner of Education will approve funds for only those local educational agency programs which comport with Title I and the Constitution of the United States. When approval is given or withheld on a specific plan, only then should a court survey the precise program as falling within or without First Amendment boundaries.[29]

In conclusion, we find that plaintiffs are entitled to equitable relief in requiring the defendants to comply with Title I through allocation of funds to educationally disadvantaged non-public students. The fact that loc

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possibilities.''] normally not available in the private school. (A service is special if it responds to an identified, special need of the child.)

5. The services provided with Title I funds must always remain under the administrative direction and control of a public agency. These services may not be administered by the private school.
6. Title I funds may not be used to pay the salaries of private school employees.

. . . .

12. No Title I funds may be used for religious worship or instruction.
13. Work-study assignments may not be made in such a way as to enhance the value of private premises or supplement activities normally financed by the private school.
14. Teacher aids performing services on private premises, as well as those in public schools, must be involved directly in a Title I activity.
15. Title I funds may not be used to contract with a private school to administer a Title I activity.''

Office of Education Handbook, supra note 23, at 12-14.

[28] See 111 Cong.Rec. 7298-7299 (1965) (remarks of Senator Morse), for an extensive list of possible Title I activities.

[29] Many factors would be important: what is the precise program offered; in what manner is the remedial program to be offered; does the

agencies have failed to request funds for non-public school children or that private schools have not stated their needs is not justification for denial of an equitable and comparable program for eligible private school children. If the state is to participate in Title I programs, the state has the responsibility to seek out the disadvantaged child and discover his needs. 45 C.F.R. § 116.19(b) (1972).

The record here demonstrates that the basic problem in administering Title I in Missouri has been the tenor of non-cooperation by *both* public and non-public officials. Title I is premised and can work only upon a firm foundation of cooperation by both public and non-public officials. The regulations require that the local educational agency determine the need of the educationally deprived children enrolled in the private school, and this is to be done by "consultation with persons knowledgeable of the needs of these private school children." 45 C.F.R. § 116.19(b) (1972). Implementation of this procedure is the primary responsibility of the state and local officials.[30] The record before us is barren of any evidence that non-public school

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program fully contemplate the restrictions set forth by the United States Commissioner (see note 27 supra); where and when is the program to be offered; what equipment and materials are used; who administers and supervises it; and who benefits from it. These factors must be compiled before applying the triparte analysis in *Lemon of* whether the program (1) has a secular purpose; (2) possesses a principal or primary effect which neither advances nor inhibits religion; and (3) avoids " 'an excessive government entanglement with religion.' " *Lemon* v. *Kurtzman*, 403 U.S. at 612-613.

[30] The National Advisory Council on the Education of Disadvantaged Children has recommended in the past certain steps which undoubtedly would help implement an effective program for non-public school children. Among its recommendations have been:

> "[That the states designate] *in their departments of education, a liaison officer between public and nonpublic school officials,* overseeing the participation of nonpublic school children at the local level. Such an individual would remain in close contact with the official serving that function in the Office of Education in Washington. *Similarly, we recommend to local public and nonpublic school officials that they*

officials in Missouri have been active consultants in Title I planning or evaluation. This flagrantly violates the Act for the net result of this unauthorized conduct is to neglect the only intended beneficiary of the Act—the disadvantaged child.

The case is remanded to the district court with directions to enjoin the defendants from further violation of Title I of ESEA, and it is further ordered that the court retain continuing jurisdiction of the litigation for the purpose of requiring, within reasonable time limits, the imposition and application of guidelines which will comport with Title I and its regulations.[31] Such guidelines must provide the lawful means and machinery for effectively assuring educationally disadvantaged non-public school children in Missouri participation in a meaningful

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designate an individual with sufficient time and resources to act as a liaison on Title I participation.

"[That] *the Office of Education and the states . . . continue to urge the involvement of nonpublic school officials in the planning and evaluation of Title I at the local level.* This effort could be given emphasis by providing space on planning and evaluation forms not only for the signature of nonpublic school officials but also for their comments on various aspects of the Title I program. Similarly, the comments of public school officials on the problems they have encountered in encouraging nonpublic participation should be invited.

. . . . .

"[*T*]*hat the Office of Education and the states review the means of identifying eligible children and particularly of establishing target areas. . . .*

. . . . .

"[And that where] *services to children justify it, there should be an increase in shared time programs,* joining public and nonpublic school children in common learning experiences. Such mingling is a positive intent of Title I. Yet few localities include shared time in Title I planning. It should be encouraged by disseminating reports of successful programs which incorporate shared time." National Advisory Council on the Education of Disadvantaged Children, Annual Report to the President and the Congress 42-43 (1969).

The National Council singled out the Title I program in Pittsburgh, Pennsylvania, as a model program of success. We have set out the report on the operation of this plan in the Appendix.

[31] The Missouri Department of Education regulations as currently phrased will provide a sound basis for supplementation if, and only if, procedural machinery is provided to carry them out. See note 8 supra.

program as contemplated within the Act which is comparable in size, scope and opportunity to that provided eligible public school children. Such guidelines shall be incorporated into an appropriate injunctive decree by the district court.[32]

Reversed and remanded.

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[32] Although we do not pass on the merits of plaintiffs' claim for accounting and damages, the granting of equitable relief herewith should not be construed as determining plaintiffs' damage claim. Plaintiffs must overcome other legal barriers if they are to prevail in their prayer for damages. One of the most important of which is that Title I does not contemplate that private schools shall necessarily receive a pro rata share of Title I funds allocated to a state for its disadvantaged children. (See also note 14 supra.) We observe that the continuing litigation over this issue is not apt to be productive and can only result in further friction between the parties. Determination of the present legal conflict now can better lead to a beneficial and cooperative program for all children in Missouri intended to be beneficiaries under the Act. In any event, we direct that the injunctive relief granted herein shall be issued and be effective forthwith.

APPENDIX

A COMMUNITY CASE STUDY OF NON-PUBLIC SCHOOL CHILDREN AND TITLE I IN PITTSBURGH, PENNSYLVANIA*

"Pittsburgh is a heavily industrialized city of 650,00 persons. Figures provided by the school system sho 122,000 children in the city, 76,000 enrolled in publi schools (62%) and 46,000 in nonpublic schools (38%). O these, 17,500 live in Title I project areas; 13,000 are publi school children (74%) and 4,500 are private school children (26%). There are no private schools, other tha Catholic schools, in the city with children eligible f Title I funds.

"Title I expenditures for City D have been as follows:

1966-67	School year	$2,509,000
1967	Summer	21,000
1967-68	School year	3,163,000
1968	Summer	53,000

"A partial listing of programs for the 1966-67 school year are as follows:

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* National Advisory Council on the Education of Disadvantaged Children, Annual Report to the President and the Congress B-8—B-11 (1969).

Instructional Activity	*Number of Public School Participants*	*Number of Nonpublic School Participants*
Art	1459	0
English-Reading	655	563
English-Speech	377	712
English-Second Language	866	481
Music	6258	531
Recreation	118	0
Service Activity		
Guidance-Counseling	2049	1031
Social Work	348	1086

Planning and Evaluation in Pittsburgh

"Even before Title I allocations were announced for the first year of the program's operation, public school officials were meeting with Catholic school leaders to plan joint programs. The leaders of two systems were not strangers to one another; Pittsburgh has had a long history of shared-time programs. For years parochial school students had traveled to nearby public schools to participate in home economics classes and courses in vocational education. The plan agreed upon for Title I programs was based on a mutual understanding of the needs of disadvantaged children in the two school systems.

"Title I project areas were selected on a school-by-school basis in the public system using census and AFDC information. Once an individual public school was selected children in the parochial school in the same neighborhood also qualified, so long as Catholic officials verified the assumption that disadvantaged children attended the school in numbers roughly equivalent to the companion public school. According to public school officials, this system was used because the nonpublic school leaders knew they would be responsible for their decision and would behave accordingly. At the same time, public school officials themselves had more than a passing understanding of the composition of Catholic school populations in Pittsburgh.

"Once the project areas were agreed upon, programs were established with services provided equally to the children in the paired public and parochial schools. Approximately 30 percent of the disadvantaged students in Pittsburgh were enrolled in parochial schools and about 30 percent of the Title I funds were expended on these students. In practical terms this has meant that some remedial teachers spend part of their day in the nonpublic school and part in the public school. Few programs mix students from the two systems.

"In the Communication Skills program, for example, where intensive reading preparation is given, half of the teachers spend half of their time in parochial schools. Thus 25 percent of the total program takes place with nonpublic children. This program is concentrated in 11 public schools, but provides services to children in 30 Catholic schools. In other words, 75 percent of the teachers and equipment are located in a few public schools while 25 percent serve children in numerous parochial schools. This arrangement was pressed by Catholic school officials; those public officials in charge of the program feel that students benefit most from a concentration of services. The U.S. Office of Education, in its guidelines, is explicit in urging such concentration.

"Certain programs, as seen in the listing above, serve only students in public schools, while others serve both in varying proportions. Funds for reducing class size, for example, are not expended for children in parochial schools. Some substitution takes place, however, so that more than 30 percent of the participants in some programs are nonpublic school children.

"According to both Catholic and public schoolmen, evaluation is an on-going process. The deputy superintendent of the Diocese schools and the associate director of compensatory education for the Pittsburgh school system, call one another whenever necessary to discuss Title I programs. Decisions on the retention or expansion for the various components of Title I are discussed at regular joint meetings, occasionally with the public school superintendent in attendance. In one example of what transpires at such gatherings, it was recently proposed by the public school administration that a program involving mobile speech clinics be ended. Parochial officials saw this as undesirable for their children since it would have ended speech therapy in their schools. A compromise finally was reached where one laboratory would be kept to serve nonpublic pupils.

"In part, this joint evaluation is encouraged by a State Department of Education regulation requiring the signature of nonpublic officials on the state evaluation form. This is to insure that consultation with private school leaders has, in fact, taken place. This is a recent regulation, however, and active cooperation was commonplace in Pittsburgh before its enactment.

"Current planning in Pittsburgh includes the establishment of a position within the public school's office of compensatory education to represent the nonpublic schools on a half-time basis. Such a liaison would assist in planning and evaluation and would assure full participation wherever possible. Funds do not presently provide for such an individual, however, and it appears that this plan will not be activated in the immediate future because of the curtailment of Title I funds.

Discussion

"Both public and nonpublic school officials take pride in the harmonious relationship between the two systems. A long history of such cooperation is present, enhanced by a state constitution which has long permitted shared-time programs. Title I is being administered in keeping with this spirit to the satisfaction of all the participants involved.

"Programs in the 1967-68 school year, for which evaluations are not ready at the time of this writing, showed that nonpublic participation was occurring at approximately 30 percent, though probably at a slightly reduced level (one estimate was 27.3% total allocation). Individual program descriptions for 1967-68 demonstrated that disadvantaged nonpublic school children have been considered in the planning of each Title I program.

"There is less inter-mingling of public and nonpublic school children students in Title I programs than might be considered desirable by some observers, including some of the original sponsors of Title I legislation. In part this is the result of the convenience and the economy in shifting teaching personnel from school to school, rather than students. Distance is sometimes a factor, as walking is not always possible. Also, there are a number of problems associated with moving a large body of students through crowded urban neighborhoods. Such an effort, however, would lead to a sharing of programs between Pittsburgh public schools, many with large nonwhite populations, and Catholic schools, which tend to be filled with mostly white students.

"The nature of the Catholic school organization fosters cooperation. The Catholic Schools Office is highly centralized and has full support of the Bishop of Pittsburgh. The Schools Office has authority to speak for all parochial schools in the City and the Diocese. Thus, the public school officials have only one person with whom they must communicate. This is a tremendous advantage and has contributed greatly to the public/nonpublic cooperation. It would be much more difficult to establish such rapport in cities with autonomous Catholic schools.

"On the whole, the situation in Pittsburgh seems to follow closely the letter and spirit of Title I with regard to the provision of services to disadvantaged nonpublic school children. Nonpublic school officials contribute to both planning and evaluation. Aid is given to nonpublic school children but the nature of that aid is such that careful control seems to be exercised by the public school officials. At the same time, because participation in program formulation is invited and because of frequent intercommunication, the non-public officials are in a position to both assist in, and observe, the operation of Title I. Such a situation would seem to provide a sound basis for informed judgment on the part of public officials with whom responsibility for Title I programs ultimately rests. The real benefactor would seem to be the disadvantaged child in Pittsburgh who is receiving aid regardless of the school he attends, as is the intent of Title I."

STEPHENSON, Circuit Judge, dissenting.

I respectfully dissent. Notwithstanding the view expressed in the majority opinion, Title I of the Elementary and Secondary School Act of 1965 clearly *only permits* and does not mandate the assignment of public school teachers to private schools during regular school hours. That no such congressional purpose ever prevailed is evidenced by the Act's legislative history. The bill's floor manager in the House initially expressed the view that a public school teacher could not be assigned to a private school under the provisions of Title I.[1] Following lengthy debate a compromise was carefully reached by which "The decision about the best arrangement for providing special educational assistance under Title I is left to the public education agency of the school district, under the Constitution and laws of the State." 111 Cong. Rec. 5979 (1965).[2] Since the Act is only permissive with respect to school teacher assignments, the Missouri State Board of Education, bound by its state constitution and court decisions, could properly determine not to approve school district plans providing for the assignment of public school teachers to private schools during regular school hours.

I therefore find myself in complete agreement with Judge Collinson's conclusion that:

> "Title I clearly does not mandate the assignment of teachers paid by Title I funds to nonpublic schools. The legislative history of the Act demonstrates that such an intention was completely disavowed by every proponent of the bill."

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[1] See 111 Cong. Rec. 5743-8 (1965) and G. LaNoue, "Church-State Problems in New Jersey: The Implementation of Title I (ESEA) in Sixty Cities," 22 Rutgers L. Rev. 219, 234-235 (1968).

[2] See also, Sen. R. No. 146, 89th Cong., 1st Sess., 1965 U. S. Code Cong. & Admin. News, 1456-1457.

I would therefore affirm the trial court's denial of injunctive relief.

If, as the majority holds, Title I *mandates* the assignment of public school teachers to private schools, I fail to see how the constitutional issue presented can be avoided. I share in the District Judge's grave concern that Title I, under such circumstances, could not withstand the constitutional challenge. See *Lemon* v. *Kurtzman,* 403 U.S. 602 (1971); *Americans United for Separation of Church and State* v. *Okey,* 339 F.Supp. 545 (D. Vt. 1972) and *Johnson* v. *Sanders,* 319 F.Supp. 421 (D. Conn. 1970), *aff'd* 403 U.S. 955 (1971). The "entanglements" fostered by Title I, as construed by the majority, appear quite indistinguishable from the excessive entanglements proscribed by *Lemon.* See generally, 22 Rutgers L. Rev., *supra.*

I join in the majority's concern with respect to the failure of the parties to negotiate a lawful program pursuant to the Act. Unfortunately, the victims of this lack of cooperation are the intended beneficiaries of Title I, the educationally deprived children.

A true copy.

Attest:

Clerk, U. S. Court of Appeals, Eighth Circuit.

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

FILED
MAY 9 1973

ANNA BARRERA, et al,)
Plaintiffs,)
vs.) Number 18248-2
HUBERT WHEELER, et al,)
Defendants.)

INJUNCTION AND JUDGMENT ISSUED IN COMPLIANCE WITH MANDATE

The Judgment of the United States Court of Appeals for the Eighth Circuit in the above styled cause, having been entered and filed in the United States District Court for the District of Missouri, Western Division, on May 1, 1973, ordering that this cause be remanded to this court for proceedings in accordance with the majority opinion of the United States Court of Appeals, and by said majority opinion ordering this court to enjoin the Defendants from further violation of Title I of the Elementary and Secondary Education Act of 1965 (ESEA) and ordering the court to retain continuing jurisdiction of this litigation.

IT IS THEREFORE ORDERED AND ADJUDGED that the Defendants and each of them, their agents, employees, and all other persons acting under the direction or authority of them, be and they are hereby perpetually enjoined and restrained as follows:

1. Ordered and enjoined that when the needs of eligible children require it, special personnel services may be furnished under Title I by the public agency on private as well as public school premises, and further if such special personnel services are furnished public school children during regular school hours and on the public school premises where the pupil regularly attends, then comparable and equitable personnel

services must be provided eligible private school children during regular school hours on the private school premises where the private school child regularly attends. Defendants are enjoined from disapproving any application of a Local Educational Agency (LEA) for the grant of Federal Title I ESEA Funds on the basis that such application includes the use of Title I personnel on private school premises during regular school hours.

2. Ordered and directed that based on determined need of the eligible private school pupil, all Title I ESEA applications shall provide services and activities which meet the special need of such pupil and which are comparable and equitable in quality, scope and opportunity for participation to those provided to eligible public school pupils similarly situated.

3. Ordered and directed that where an application makes available free transportation to eligible public school pupils at Title I expense then said free transportation shall be provided to eligible private school children similarly situated.

4. Ordered and directed that each application under Title I, ESEA, shall clearly evidence that persons knowledgeable of the needs of the private school children have been consulted in the planning and evaluation of such Title I projects at all stages.

5. Defendants are enjoined from approving any application by an LEA for a Title I Grant unless such application fully complies with the provisions of this Order and the Mandate and majority opinion of the United States Court of Appeals for the Eighth Circuit.

6. Defendants are ordered and directed to conform any regulations, guidelines, policies, instructions (verbal or written), applications, and other Title I forms previously or hereafter issued by Defendants, their agents, employees and all other persons acting under their direction or authority, and any practices or procedures used by them, to the provisions of this Order and the Mandate and majority opinion of the United States Court of Appeals for the Eighth Circuit.

7. The Defendants are ordered and directed to immediately notify all public school and private school administrators of the rights of eligible private school children under Title I ESEA by distributing to each of them a copy of this Injunction And Judgment Issued In Compliance With Mandate and a copy of the majority opinion of the United States Court of Appeals for the Eighth Circuit.

8. The Defendants are ordered and directed to make available on a permanent and continuing basis, for convenient inspection and copying by Plaintiffs or their representatives during regular office hours, all records and documents regarding ESEA and its implementation in the State of Missouri.

9. It is Ordered that this Injunction And Judgment Issued In Compliance With Mandate shall be effective forthwith and that this court retains continuing jurisdiction of this litigation to assure that eligible pupils attending private schools participate in meaningful programs as contemplated within ESEA. Costs be taxed to Defendants.

Wm R Collinson

William R. Collinson
District Judge

Dated: 6/4/1973

Attest: A true copy.
[illegible] J. C. [illegible], Clerk.
By ______ Deputy

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

DEC 15 1972

MEMORANDUM TO: CHIEF STATE SCHOOL OFFICERS
ADMINISTRATORS OF NONPUBLIC SCHOOLS

SUBJECT : Responsibilities for Meeting Nonpublic Participation
Requirements in Federal Programs

The eligibility of nonpublic elementary and secondary students to participate in Federal programs serving needs which they share in common with public school children has been increasingly recognized in legislation since the principle was established in the Elementary and Secondary Education Act of 1965. It is the purpose of this memorandum to invite your particular attention to this matter which you know has been implemented in applicable Federal regulations.

The U.S. Office of Education has a responsibility to assure that the benefits of all programs for which nonpublic school children are eligible are made fully available to such children. This includes the effective access, with advice and suggestions by persons knowledgeable as to the needs of such children, to policy making councils at the State and local levels where decisions on the use of Federal funds under the applicable programs are made.

Each Federal program officer is expected to assess the implementation of this policy in carrying out the functions of review, approval, monitoring, and evaluation, and to take appropriate action in situations where nonpublic participation is found to be other than in accordance with the requirements of the law.

The Chief State School Officers, as the principal education leaders in the States, are responsible for assuring that the level and quality of nonpublic participation fully and fairly meet the requirements of the applicable Federal programs. About twenty State agencies have already designated an official responsible for ensuring the adequate participation in Federal programs of nonpublic school children.

It is my hope that all Chief State School Officers will move to provide comprehensive services in State Departments of Education which will give representatives of nonpublic school children full access to Federal program information and planning. At a minimum, each State should designate a contact point for inquiries, program information, and the gathering of data on nonpublic participation.

For their part, I ask the administrators of nonpublic schools to play a more active role in assuring that students in those schools receive the full benefits of Federal programs to which they are entitled. I encourage nonpublic school leaders to contact their State educational agency for further information on all Federal programs which are available to children enrolled in their schools.

The U.S. Office of Education is determined to achieve that degree of participation of eligible nonpublic school students which is required by law. Please do not hesitate to ask the assistance of our Office of Coordination of Nonpublic School Activities as you seek to build the increasingly effective relationships between public and nonpublic schools which will be required to reach this objective.

Duane J. Mattheis

Duane J. Mattheis
Deputy Commissioner for
School Systems

Senator Pell. Thank you for your testimony, which has been very helpful and solid. Mr. D'Alessio, as I interpret what you said, you support continuation of categorical programs as opposed to consolidation, that would be the effect of your testimony. In your testimony you said you did not take a position on it at the time, but the gist of your testimony seemed to me to lead us to that conclusion.

Mr. D'Alessio. I think I said in my testimony, Mr. Chairman, that we had not taken any position on the consolidation of present categorical programs. However, I also pointed out that any consolidation if there would be one would have to assure the equitable participation of nonpublic school children.

Senator Pell. It would seem to me that for the protection of the rights of your children, under consolidation you would fare well, better than average in my own State and in Massachusetts, while you might not fare as well in some of the other States. Therefore, I would think you would be for continuation of the categorical programs.

Mr. D'Alessio. I would think the important consideration, Mr. Chairman, is that regardless of the programs, categorical or consolidated, there must be adequate safeguards to assure the equitable participation of our children in these programs.

Senator Pell. Would you be kind enough to furnish for the record for my own information the latest figures you have, broken down into State level, of the number of children attending full-time parochial schools?

Mr. D'Alessio. Yes, we can furnish those for the record.

Senator Pell. And if you could give us also the same figures for 10 years or 12 years ago so we could see what the trend is on a State-by-State basis.

Mr. D'Alessio. Yes, we do not have them with us, but we can furnish them for the record.

Senator Pell. Good. If you have the adequate mathematical abilities, we would appreciate it if you would put the percentages of total children in the column as well.

Father Bredeweg. Total students attending?

Senator Pell. What I would like to see is a column with the number of children in Catholic schools and what percentage that is of the total number——

Father Bredeweg. Of all the children?

Senator Pell. In that State, in any period you would like, 10, 12 years ago, and I wonder if Mr. Thomsen could furnish us the same figures for the non-Catholic nonpublic schools.

Mr. Thomsen. We would be able to do it only for the National Association of Independent Schools, which would be a small sector of what is left.

Senator Pell. That would include all the religious schools, would it not?

Mr. Thomsen. Not the National Association of Independent Schools figures which would be my particular bailiwick. I believe, however, that we can gather the information that you wish and coordinate the results with the figures which will be furnished for the Catholic enrollment.

Senator Pell. Maybe if you could ask Rabbi Seidman and if they could supply this for the record.

I think it would be interesting to have in this hearing to see what the trend is and how strong it is, whether it is increasing or decreasing in these directions,

Father BREDEWEG. If I might make a comment, the problem is a statistical one in gathering data. I think you could compare 1965–66 with 1970–71, and get a 5-year look. Possibly you could get 1960–61.

Senator PELL. That would be fine. I would hope Mr. Thomsen would coordinate his work with Mr. D'Alessio so we would have the same time frame being used.

In connection with religious instruction, are there more Catholic children going to religious instruction after school now than there was 10 years ago or is there less? Not full-time parochial schools.

Mr. D'ALESSIO. May I submit that for the record, Mr. Chairman.

Senator PELL. Fine. I would be interested in that for the record. I mentioned this to you before, that my own house became a Catholic girls high school, and I saw enrollment go up and drop down again. It is still a school, but now in the public school system in my city.

Senator Stafford.

Senator STAFFORD. Thank you Mr. Chairman.

Mr. D'Alessio, I noted on page 2 of your testimony that you stated we feel deeply, the necessity for more adequate funding of the act. Could you give us some thought for what you would consider to be adequate funding for this act?

Mr. D'ALESSIO. I think the only way I could answer that, Senator, would be to say that more adequate funding would be essentially more funding than, a higher funding level, than we presently have.

Senator STAFFORD. Another billion dollars or half a billion?

Mr. D'ALESSIO. I think Mr. Duffy would like to respond to that.

Mr. DUFFY. For 2 years I worked as the State and Federal programs coordinator in the diocese of Brooklyn. I will just use the illustration for fiscal year 1973. New York City, in 1973, received $125 million under ESEA title I. The nonpublic school sector using the criteria of residence in an attendance area, and also educational deprivation, identified between 33,000 and 34,000 eligible children. The funding level for each identified child was $262 and some-odd cents, so we will round it off and we will say $263 per child.

The State educational agency, in 1973, prescribed a critical mass figure for expenditure for an adequate compensatory education program per child at a level of $400. Each identified child generated $262.

So there was a significant difference between an adequate program and what each child identified generated.

You could also see the 33,000 children, everyone of the identified children did not receive service because of the difference in the funding. I believe that the legislation states that the funding level should be within 50 percent of the State expenditure for each child. I would say that would be adequate funding, if you could reach what the legislation suggests. In other words, full funding of the program.

Here we have 34,000 or 33,000 youngsters identified, their needs are not even being met. I would say that less than 50 percent of those identified, nonpublic school children, did not receive service. Now these are just under the present criteria of residence in a poverty area, and educational deprivation.

Senator STAFFORD. Could that be translated into some kind of recommendation to this committee, whether we should have—try to add a billion dollars to the total funds or half a billion or more?

Mr. DUFFY. Well, I do not know. I think your economists could come up with a better figure than I can.

Senator STAFFORD. I am not sure but what educators in education can do better than an economist.

Mr. DUFFY. You know, I do not want to stick my neck out and say $5 billion or $1 billion, I am not sure. I do not know.

Senator STAFFORD. At one point I thought your figures suggested maybe a 25-percent addition to the present contemplated funding, when you were discussing the New York children.

Mr. DUFFY. Yes, I was. I do not know total per pupil expenditure in New York State, but the State expenditure is quite high, as you compare it with other States.

If New York State would receive for their eligible title I children one-half of what the State spends, I would consider that adequate funding in New York State. It might be the same type of adequate funding for the rest of the States.

Senator STAFFORD. Thank you very much. I have just one more question. That was with respect to Mr. D'Alessio's statement. I got the impression that you were recommedning a bypass in connection with title I, bypass legislation. Possibly in your detailed statement or elsewhere in these documents we have the language which you have in mind, but if we do not have language, do you have some in mind, something in mind to recommend here to the committee?

Mr. D'ALESSIO. Yes. There is language cited in our detailed statement, and I think that the language that is presently contained in H.R. 69 would be adequate bypass language.

Senator STAFFORD. Have you addressed the question of possible constitutional complications with respect to title I and the bypass?

Mr. D'ALESSIO. We do not have a counsel with us here this morning, but we would be happy to submit a statement for the record concerning the constitutionality of title I and the bypass.

Senator STAFFORD. I think that would be helpful to the committee if you would do that for the record. Thank you very much. I have appreciated your testimony.

Senator PELL. Thank you very much indeed for good testimony. I think actually it has been a good day of hearings.

I congratulate both the non-Catholic and Catholic representatives here for excellent testimony.

At this point I ordered printed in the record all statements of those who could not attend and other pertinent information submitted for the record.

[The information referred to follows:]

2458

BEST COPY AVAILABLE

AN ASSESSMENT OF THE INVOLVEMENT
OF NONPUBLIC SCHOOL CHILDREN
IN TITLE III PROJECTS OF THE
ELEMENTARY AND SECONDARY EDUCATION ACT

Reverend Charles Patrick Laferty, O.S.A.

A Research Project Sponsored by the
National Advisory Council on
Supplementary Centers and Services

DISCLAIMER

This study by the Reverend Charles P. Laferty, Villanova Monastery, Villanova, Pennsylvania 19085, a graduate student at the Catholic University of America, Washington, D.C., was developed under the sponsorship of the National Advisory Council on Supplementary Centers and Services. Points of view or opinions expressed herein do not necessarily represent the viewpoint of the National Advisory Council or the United States Office of Education.

ESEA legislation in 1965 climaxed many years of dialogue directed toward the reform of the nation's schools. Title III has the role, in this legislation, of generating innovative and exemplary programs, in a local context, for all school children.

The research reported here assesses the involvement of nonpublic school children in the Title III venture.

Numerical Proportion of Nonpublic School Children Participation

During 1970, the year for which this research was conducted, 49,924,745 children attended the nation's elementary and secondary schools; of that number 5,729,166, or 11.5 per cent, attended nonpublic schools. Sixty-five per cent of all school children had the opportunity to share in Title III projects in some manner, 22 per cent in a direct manner.

Table 1 STUDENT PARTICIPATION IN ESEA TITLE III NATIONALLY

	Direct	Indirect	Total	Per Cent
Public School Children	10,160,724	18,936,037	29,096,761	89.7
Nonpublic School Children	1,186,794	2,180,371	3,367,165	10.3
All School Children	11,347,518	21,116,408	32,463,926	

To test these figures a questionnaire was sent to 611 project directors of the 1,650 projects active in FY 1970.[1] Five hundred and forty-four, or 89 per cent, of the project directors responded.[2] The basic information sought was a comparison of participation by public school children and nonpublic school children. The replies received represent 37 per cent of all funded 1970 Title III projects and 35 per cent of all school children directly involved in projects.

Participant figures representing Title III projects, obtained from questionnaire returns were compared with actual population ratios of public and nonpublic school children and are reported below in terms of per cent deviation of the project directors' responses to the actual population.[3]

Table 2 PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN IN TITLE III PROJECTS AS PER CENT DEVIATION FROM ACTUAL STUDENT POPULATION RATIOS IN THE PROJECT AREA (From 478 Project Sample)

Deviations	LEA Under 50,000 %	LEA 50,000 or Over %	All LEA %
None	21.7	26.4	23.4
0- 5% below	13.2	18.4	15.1
5-10% below	6.6	12.6	8.8
10-25% below	7.2	5.0	6.3
100% below (No NPSC Par.)	38.8	21.8	32.6
No data given for PSC/NPSC	12.5	15.8	13.8
	100.0%	100.0%	100.0%

Discounting disproportions less than five per cent, 38.5 per cent of the projects have proportionate participation by nonpublic school children. 15.1 per cent of the projects have significantly lower participation by nonpublic school children than student populations in the project area indicate as proportional. This figure is slightly (17.6%) higher in high density LEAs, wherein most nonpublic schools are located.

The absence of any nonpublic school children participation in Title III projects was reported by 32.6 per cent of project directors, while an additional 13.8 per cent gave no numerical data for either public school children or nonpublic school children, a combined total of 46.4 per cent of the returns. The reasons for the lack of any nonpublic school children participation is indicated by the following table.

Table 3 REASONS FOR LACK OF ANY PARTICIPATION IN TITLE III PROJECTS BY NONPUBLIC SCHOOL CHILDREN

	Number of Projects	Per Cent	Per Cent of All Projects Sample
No NPS in LEA	82	37	17
State Constitution restrictions	9	4	2
No NPS interest	38	17	8
Restrictive type of project	44	20	9
Project designed for PS only	49	22	10
Total	222	100%	46%

The first reason in no way involves a lack of participation. Legislative by-pass is a ready recourse for the restrictive state constitutions of the second reason. Reason three, while it raises questions of equity and effectiveness, was accepted at face value.

Group four (restrictive type of project) includes projects for which a separate count of public school children and nonpublic school children was not kept: some Special Education projects, Preschool projects, certain centers. Again, equity or effectiveness of participation may be questioned, but no clear evidence of exclusion of nonpublic school children is given.

Group five, however, does provide evidence of exclusion: projects designed for public schools only. Such projects include: Technical Education Pilot Studies, One-School Pilot Studies, Special Age-Group Programs and some Special Education Projects.

In summary, the number of projects which show a lack of proportionate participation of nonpublic school children include:

Table 4 PROJECTS WITH A LACK OF PROPORTIONATE PARTICIPATION BY NONPUBLIC SCHOOL CHILDREN OF 478 PROJECTS SAMPLED

	LEA Under 50,000		LEA Over 50,000		All LEAs	
	No. of Projects	Per Cent	No. of Projects	Per Cent	No. of Projects	Per Cent
10-25% below actual population	42	13.8	30	17.6	72	15.1
Projects designed for PS only	35	11.5	14	8.0	49	10.3
Total	77	25.3	44	25.6	121	25.4

One project in four, involving some 841,791 nonpublic school children, shows a significant lack of participation of these children.

RECOMMENDATION 1: Project proposals should indicate in clearer detail the planning and operational involvement of the nonpublic school sector.

RECOMMENDATION 2: Pilot study type projects should include, in their proposal, details of applicability to all schools in the LEA involved.

Analysis of project directors' data by regions reveals the following:

Table 5 REGIONAL PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN IN TITLE III EXPRESSED AS PER CENT DEVIATION FROM ACTUAL STUDENT POPULATION RATIOS

	Per Cent
North Atlantic States	- 7.3
Midwest and Plain States	- 3.1
Southeast States	+ 2.7
Southwest and West States	- 0.7

Greater negative deviations occur in the States with the highest number of nonpublic school children, the North Atlantic corridor and the midwest urban centers.

RECOMMENDATION 3: A conference of officials representing public and nonpublic schools and systems from selected metropolitan areas of high nonpublic school children density could yield a profile for PNAC to revise regulations and promote legislation for fuller nonpublic school children participation in Title III.

Projects were classified into nine types:

Table 6 PROJECTS BY TYPES WITH PER CENT OF TOTAL SAMPLE INDICATED

	Per Cent of Total Sample
Institutional improvement	4.8
Personnel and instruction	5.2
Curriculum	20.8
Technology	3.9
Community Involvement	8.6
Service/Demonstration Centers	33.3
Special Education	12.5
Research and planning	0.9
Pupil services	10.0

The highest deviations for a proportionate participation of nonpublic school children were in three types of projects: Technology (16.6%), Curriculum (14.6%) and Personnel and Instruction (12.0%). Reasons for this dominance are: unavailability of technical equipment on nonpublic school property; inability of nonpublic school children to share in Title III projects at public school locations during regular school hours; lack of source of compensation for nonpublic school staff for personnel training in terms of released time compensation.

RECOMMENDATION 4: The law should be amended to permit the storage and use of certain project equipment on nonpublic school property, in a manner analogous to Title II.

RECOMMENDATION 5: The law should be amended to permit compensation for staff released time for nonpublic school personnel on the same basis as public school personnel. This would give a more positive thrust that the funds promote "innovations in a local context."

Nonpublic school officials, in response to a questionnaire sent to them offered no substantive data contrary to the data of the project directors. Their perceptions as a group are that nonpublic schools do not share proportionately in Title III. But few could offer direct numerical support except in cases where no nonpublic school children participated. Their attitudes are reflected in response to a questionnaire sent to 109 nonpublic school officials.

Table 7 OPINIONS OF NONPUBLIC SCHOOL OFFICIALS FROM QUESTIONNAIRE RETURNS

		Per Cent		No Response
		Yes	No	
1.	Do projects provide for all children?	26.1	67.4	6.5
2.	Is there schedule coordination with nonpublic school personnel?	19.6	79.1	4.3
3.	Do you share in project planning?	30.4	60.9	8.7

Direct, numerical participation of nonpublic school children in Title III during 1970 has been presented in terms of a national survey and in terms of several subgroups; regional, project classification and nonpublic school officials. The salient fact discovered is that 25.4 per cent of the projects sampled did not have the participation of nonpublic school children in proportion to their ratio in the population of all students.

The Equity of the Participation of Nonpublic School Children

Since three-fourths of the projects sampled show proportionate participation in Title III by nonpublic school children, the next question was do they share as equal partners? To do this the children must not be excluded from any phase of an appropriate project and nonpublic school officials must be fully aware of the opportunities of participation.

The questionnaire sent project directors and nonpublic school officials sought a professional judgment about specific projects. Project directors responded in terms of their particular project. Nonpublic school officials, generally, did not respond in terms of specific projects, but offered their perceptions about equity.

Table 8 RESPONSE OF PROJECT DIRECTORS AND NONPUBLIC SCHOOL PERSONNEL ABOUT EQUITY OF NONPUBLIC SCHOOL CHILDREN PARTICIPATION IN TITLE III
(By Percentage)

	Project Directors			NPS Personnel		
	Yes %	No %	NR* %	Yes %	No %	NR* %
1. Based on project design did NPS participate on an equitable basis?	83.5	7.5	9.0	26.1	41.3	32.6
2. Was formal notice of project sent to NPS?	52.5	28.0	19.5	34.8	34.7	30.5
3. Was a reply from NPS personnel received?	53.0	36.0	11.0	17.4	28.3	54.3
4. In project operations were there distinction of services between PS and NPS children?	7.0	84.0	9.0	4.5	43.5	52.0

* No response

While four-fifths of the project directors felt their projects were designed for equity of participation, nonpublic school personnel did not feel this way by a 3:1 ratio. The reason for the adverse opinion is that nonpublic school personnel saw no design features of projects in the planning stages to provide later for operational success. Forty-three per cent saw this as an inherent problem of the Title III law whose wording, they felt, favored public school dominance of Title III projects. Thirty-two per cent saw this inequity as a matter of poor communications, or indifference, at the planning level.

While many project directors are not familiar with the requirements or mechanism of notifying nonpublic schools about projects, a high percentage (28%) recognize that this was not done and a larger group (36%) received or knew of no acknowledgement of nonpublic school interest before submitting the proposal to the state level. Yet state records show such notification as routinely given at the LEA level. The boundary problems between school territories, school districts, LEAs and dioceses and private schools compound the notification problem; who to notify is a problem. The poor per cent of response by nonpublic school officials to LEA notification (36%) reflects their double problem of not being notified in the first place or, if so, failing to respond for one of several reasons: poor structural correspondence to the LEA; poor internal organization; minimal interest in Title III.

RECOMMENDATION 6: Certain sections of the law should be rewritten to provide greater equity of participation by nonpublic school children. Specifically:

Section 305 (a)(2)(A) -- The State Advisory Council should have representation proportionate to the public school/nonpublic school student population as its first norm of composition.

The law should require that the wording of state manuals should reflect the exact wording of the law and the Office of Education Administrative Manual in providing for nonpublic school children.

Half the nonpublic school personnel sampled (48.6%) indicated some effective way in which they were routinely notified about Title III projects. Only 13.5% indicated they received no notice. But almost all nonpublic school officials felt that a much better communications system is needed to promote general interest in the Title III ideal.

RECOMMENDATION 7: Direct mailing of appropriate literature and communications about Title III should be made to all schools, by the State Advisory Council for statewide notices, by the LEA for all schools in their district. Neither assumptions of awareness nor lack of interest on the part of nonpublic schools should be presumed.

RECOMMENDATION 8: State Title III manuals should specify to a greater degree than now exists the legal and communication requirements of LEAs for project approval.

The Effectiveness of the Participation of Nonpublic School Children

Effective participation requires planning Title III projects based on the needs of all school children, and designing projects for full operational participation.

Table 9 RESPONSE OF PROJECT DIRECTORS AND NONPUBLIC SCHOOL PERSONNEL ABOUT EFFECTIVENESS OF PARTICIPATION
(By Percentage)

	Project Directors		Nonpublic School Personnel		
	Yes %	No %	Yes %	No %	NR* %
1. Were objectives of the project planned to provide for all children?	79.5	17.5	23.9	30.4	45.7
2. Did nonpublic school participation include determination of needs?	54.5	45.5	22.0	78.0	
3. Did nonpublic school participation include planning of the project?	52.5	47.5	22.0	78.0	
4. Did nonpublic school participation include designing the project?	47.0	53.0	11.0	89.0	

*No Response

Among project directors, the higher exclusion rates for nonpublic school personnel indicates the obvious fact that most project designs are the work of one or a few usually associated with the public school system, which projects were designed with emphasis on unity of theme rather than diversity of objectives. Also indicated is the less obvious factor of what constitutes planning and the responsibility of including nonpublic school representatives. Nonpublic school personnel see planning as the provision that the public school will share its facilities equally with their pupils. LEA personnel see planning with nonpublic school personnel as a matter of notification and inclusion on committees.

In dealing with factors promoting or impeding full nonpublic school children participation in Title III operations, 45 per cent saw good communications and a willingness of LEA officials to cooperate as the chief needs, while 29 per cent saw features of the law as creating an adverse situation. But while an average of one-third of the project directors saw no exclusion factors hindering full nonpublic school children participation, yet could not indicate positive features of their own project promoting such participation.

RECOMMENDATION 9: Certain sections of the law should be rewritten to provide greater effectiveness of participation by nonpublic school children. Specifically:

Section 304(a) - To state that nonpublic school personnel should be included as such from the time of needs determination onward.

Section 304(b)(1)(B) - To stress that nonpublic school children should be provided for in terms of needs and, hence, in project designs.

The criticism of Title III norms and operations in this report should not obscure the fact that ESEA Title III is an ideal and a hope for quality education for the nation's nonpublic school children. Its twin features of creativity and exemplarism are the most urgent needs for our nonpublic schools. This principle was expressed by the vast majority of project directors and nonpublic school officials contacted and was always reinforced in my interviews.

Further, many cases of exemplary cooperation and participation were evident to the researcher throughout his research. Enough examples to conclude with this recommendation:

RECOMMENDATION 10: An in-depth study should be made of a representative number of projects in urban/suburban areas where public school and nonpublic school personnel agree that an equitable and effective cooperation in Title III projects exist, and the results of the study disseminated.

Statement of

Rev. Thomas J. Riley
Assistant Superintendent for
Planning and Evaluation
Archdiocese of San Francisco
San Francisco, California

Before the
General Subcommittee on Education
Committee on Education and Labor
United States House of Representatives
Rayburn Building
Thursday, March 1, 1973
9:30 a.m.

The Department of Education of the Archdiocese of San Francisco is responsible for 134 Catholic elementary and secondary schools in the four Bay Area counties of Marin, San Francisco, San Mateo, and Santa Clara.

Among its duties is the responsibility of working with 43 local educational agencies in these four counties in cooperative program planning where there are common needs of both public and nonpublic school students.

Although good relationships have existed between the Archdiocesan Department of Education and the 43 local educational agencies for many years, the relationships have been informal. Only with Congress' enactment of the Elementary and Secondary Education Act--with its provisions for the participation of nonpublic school students in federally funded education services--has the relationship between the public and nonpublic school sector become more formal and professional.

In the City of San Francisco, a 1972 grant from the Ford Foundation brought about the Joint Planning Council of San Francisco, a group representing public and nonpublic education. The purpose of the Ford grant was to determine whether such a mechanism for discussing mutual problems and developing common solutions would resutl in more effective instructional programs for both public and nonpublic school students. The current efforts in San Francisco for implementation of the Emergency School Aid Act for both public and nonpublic school students are a direct result of local educational agency planning which involves the nonpublic school sector and its representatives.

When we look at the involvement of nonpublic school students in our four counties in ESEA Title VII programs, we see a bleak picture which is probably the result of inadequate program planning. In our area there are four bilingual projects currently in operation (San Francisco Unified School District; Alum Rock Union Elementary School District, San Jose; Jefferson Elementary School District, Daly City; and Gilroy Unified School District). Participation of Catholic school students is non-existent in these programs.

At the same time a genuine need exists among Catholic school children for bilingual services. In the City of San Francisco alone, where our schools serve 17,000 elementary school students, 44% of the students are of minority group background. Of these minority group students, 75% are Oriental, Filipino, or Spanish-surnamed. (5,621 students). Each year since 1966, the minority group population of our schools has increased.

Our students have a need in bilingual education--but the federal benefits of ESEA Title VII are not reaching them.

We do not blame this on bad will in the local educational agencies but suggest that there may be an oversight in the law itself and in the process whereby the U. S. Office of Education reviews proposals and awards grants.

We are hopeful that this Subcommittee will incorporate into the Bilingual Education Act some of the language that has resulted in effective nonpublic school student participation in other federal programs. A provision which charges local educational agencies to seek out knowledgeable nonpublic school personnel for cooperative program planning would be helpful. A charge to the U. S. Office of Education which would require review of non-public school participation assurances would be helpful.

Your attention to this problem--the relative failure of the Bilingual Education Act to reach need[illegible]npublic students--is appreciated. We in San Francisco look forward to the day when these youngsters will receive bilingual education services in a more equitable manner.

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	American Indian				Negro				Oriental				Spanish Surname				Other Whites				Other Non -	
	C	NC	Total	%	C	NC	Total	%	C	NC	Total	%	C	NC	Total	%	C	NC	Total	%	C	NC
SAN FRAN																						
Elem	36	4	40	.24	1372	469	1841	9.4	760	655	1472	8.7	2221	24	2245	20.4	8713	425	9133	55.8	31	13
Second	33	11	44	.61	292	49	341	4.7	343	78	421	5.9	1139	23	1162	16.0	4774	228	5002	70.0	143	8
	69	15	64	.35	1664	518	2182	8.0	1103	744	1893	7.8	4470	37	4507	19.2	13487	[illegible]	14140	60.0	[illegible]	24
MARIN																						
Elem	5		5	.12	21	12	33	1.1	17	3	20	.77	172	6	178	4.9	2389	171	2560	96.0	8	
Second					2	1	3	.3	1	3	4	.4	40		40	4.0	820	113	933	95.0		
	5		5	.13	23	13	36	.95	18	6	24	.64	212	6	218	4.7	3209	284	3493	93.0	8	
SAN MATEO																						
Elem	3	2	5	.07	61	33	94	1.4	90	11	101	1.5	679	2	681	10.1	5613	131	5744	85.3		7
Second		1	1		10	10	23	1.4	15	12	23	1.4	90	5	95	4.0	1628	134	1762	77.0		4
	3	3	6	.06	71	51	122	1.4	105	24	129	1.4	779	9	777	9.3	7241	300	7565	[illegible]	74	12
SANTA CLARA																						
Elem	45		45	.5	112	82	194	2.1	70	17	87	.64	2265	13	2278	15.9	7045	123	7173	79.0	77	
Second	7		7	.2	21	13	34	.79	37	14	51	1.17	432	17	444	10.0	3501	203	3703	86.0	41	1
	52		52	.3	133	95	228	1.7	107	31	138	1.0	2797	[illegible]	2722	13.7	10553	331	[illegible]	82.0	119	3

SUMMARY	Elementary	Secondary	Total
San Fran	15,303	7,127	22,432
Marin	2,764	980	3,744
San Mateo	6,700	1,986	8,686
Santa Clara	8,977	4,299	13,276
	34,753	14,382	49,135

	Total	%	C	N.C.
American Indian	[illegible]	.3	[illegible]	[illegible]
Negro	[illegible]43	4.6	[illegible]	[illegible]
Oriental	[illegible]	4.3	[illegible]	[illegible]
Spanish Surname	[illegible]	14.4	[illegible]	[illegible]
Other Whites	[illegible]	73.3	[illegible]	[illegible]
Other NonWhites	1252	2.5	[illegible]	61
	49184	99.8	45963 (93.4%)	3225 (6.6%)

Department of Education
Archdiocese of San Francisco

Statement of

Rev. H. Robert Clark
Superintendent
Archdiocese of Chicago
Chicago, Illinois

Before the
General Subcommittee on Education
Committee on Education and Labor
United States House of Representatives
March 1, 1973
9:30 a.m.

The Catholic School System of Chicago enrolls 250,000 students in 400 elementary and secondary schools. The System includes the City of Chicago, several smaller cities in Cook County and many suburban communities. The students come from all parts of the metropolitan area and live in wealthy, middle income or economically depressed communities. About 15% of the school enrollment is black or spanish surnamed.

All of the schools and each of the students have benefited enormously from the provisions of Title II of the Elementary and Secondary Education Act, the school library program. Well over two million dollars have been expended for library materials; this money would not have been available from private sources. As a result of this program, school libraries have been established in each of the 408 elementary schools, an event which probably would not have occurred without this federal assistance. Although it is difficult to evaluate in objective terms what impact these libraries have had on the education of children, it is a known fact that the richness of the learning environment is a critical factor in students' achievement. Any cutback in federal spending for school libraries would be a terrible blow to education throughout the country.

The remainder of my remarks today will concern Title I programs, sometimes called Compensatory Education. Almost 30,000 pupils in our school system live in neighborhoods which could be described as economically depressed. Each of these children is educationally disadvantaged, although many of them are achieving at grade level. Inadequate community resources, disrupted neighborhoods, inadequate physical facilities, overcrowding--all of these are some of the components which make learning very difficult for them. Of these 30,000 youngsters, approximately 4,800 are the beneficiaries of programs funded by Title I of the Elementary and Secondary Education Act of 1965.

Teachers and principals are the best witnesses to the success of these programs. They would literally throw their arms up in despair if any or all of them were dropped. For the first time in many years they see some real progress in meeting the extensive needs of these children. Allow me to describe some of the programs.

Five hundred and fifty primary grade pupils are enrolled in a program called Individualized Instruction for Continuous Development. They are taught in groups of six to eight for 30 minutes each day. The program's intent is to improve their reading ability, although the program itself uses instructional materials from all academic areas. Reading and math skills, for example, may be strengthened at the same time. Sixteen public school teachers staff this program in thirteen Catholic schools.

A similar program called Corrective and Remedial Instruction provides services to 1,855 upper grade students in Catholic schools.

Two other reading programs are operating in some of the schools. One uses the Scott Foresman Individualized Learning System. The other is a parallelistic reading program. This latter program is designed to remove linguistic barriers in non-standard and non-native English speakers. The program presupposes that each student has a linguistic sophistication in his own culture; it builds on this skill as a means of providing a smooth transition to the mastery of standard English.

Two teachers and two teacher-aides serve 1,056 nonpublic students through the Learning Systems for Total Individualization of Remedial Reading and Mathematics Instruction. Prescription Learning Corporation operates this program. It diagnoses each student's needs and provides a computer print-out prescription for each student (updated every two to three weeks) which identifies what materials from a number of reading systems and programs should be used to meet this student's needs. Prescription Learning then provides the necessary hardware and software as well as study carrels.

Eighteen teachers work with 900 nonpublic students in 18 nonpublic schools in the Activity for Non-English Speaking Children. Each teacher sees 50 students daily for 30 to 40 minutes in small groups of eight to ten to provide second language instruction for students whose first language is not English.

One teacher and one teacher-aide operate the Individualized Mathematics Instruction Program at a nonpublic school, serving 50 students. This program is aimed at grades 4 through 8. It uses materials selected to complement the nonpublic school's own math program.

Three guidance counselors serve 240 students at four nonpublic schools. These students are already being served by Title I reading programs. Each counselor sees 80 students each week in individual and group counseling sessions. One day a week is set aside for conferences with parents.

Title I has also funded a cluster closed circut television network. One thousand three hundred and eighty-five students in our schools benefit from this activity. All of the programs are written and produced by teachers within the cluster. These programs focus on the student's own neighborhood and are geared specifically to their special needs.

Title I funds have also funded an excellent outdoor education program which takes fourth graders out of school for a week and gives them the experience of living together in the country. They go about many of their usual studies but use the resources of the out of doors for their instructional materials.

There are other programs too numerous to mention. All of them are tailored to the individual needs of youngsters with severe educational handicaps. All of them have been extraordinarily successful.

The effort to obtain equitable participation of nonpublic students in Title programs has been difficult. For the first three years of the program our participation was peripheral. Pupils went on field trips, received some health services, were eligible to attend the local public school after school for remedial reading programs. Not many were willing to do this. The result was very few nonpublic school pupils received any of the substantial services they needed to overcome the effects of their disadvantages.

Finally the Chicago Board of Education agreed that many of the same programs which were being conducted in the public schools could also be conducted by public school personnel in the nonpublic school building. Facilities were set aside within the nonpublic schools and were designated public school extensions. These facilities were staffed by teachers and teacher-aides and were equipped with necessary hardware and software, all of which was under the control of the local public school district. With that breakthrough in 1969, the benefits of Title I programs have begun to flow effectively to our pupils. In March of 1969 four Title I teachers began to conduct remedial reading programs in four nonpublic schools. That number has increased to 91 Title I teachers for the present school year. It is not that the needs of the youngsters have increased that much but rather that the nonpublic pupils are beginning to receive an equitable share of Chicago's Title I services and materials.

Our successful experience in Chicago is directly attributable to two factors: (1) Title I programs are operated within nonpublic schools and within the school day so that youngsters are not inconvenienced and their education is not interrupted; (2) Effective involvement of nonpublic students occur where there is included in the Title I administrative staff of the local public school district an official who has specific responsibility for assuring equitable nonpublic school participation. The Chicago Board of Education has two men, full-time, who are responsible for administering the nonpublic school side of the Title I programs

Involvement in the early stages of planning for Title I programs is critical for the effective involvement of nonpublic school pupils. This participation leaves much to be desired, but in recent years we have been allowed to identify the needs of our youngsters and to choose those programs which best fit those needs. Attached as Exhibit A is a Needs Assessment instrument we use with our principals. Attached as Exhibit B are the list of activities from which schools may "buy" those programs which, in their opinion, will be most helpful for their students.

The Elementary and Secondary Education Act must be expanded, not diminished. Objective achievement results are difficult to obtain, but the effect of these programs has been enormous. The emphasis on individualization of instruction has resulted in happier children who are eager to learn and who are enjoying the time in school more than ever. The elimination or reduction of ESEA would be an educational disaster.

EXHIBIT A

Archdiocese of Chicago School Board
430 North Michigan Avenue Chicago, Illinois 60611
Telephone: 527-3200

November 28, 1972

Dear Principal,

ESEA Title I staff personnel at the Chicago Board of Education are beginning to assess program needs for next year's (73-74) Title I program. If we are to have a voice in what programs will be available for our children next year, we have to get together soon and determine what are our special needs.

You and any other member of your school community (faculty, parent) are encouraged to attend the needs assessment meeting for your area of the city (listed below). If you cannot attend yourself, please try to send a representative.

Your area meeting:

Area A: December 5th - 10:00 A.M.
St. Martin
5838 S. Princeton
Chicago, Illinois 60621

If you cannot attend your area meeting, please try to attend one of the other two area meetings.

Area B: December 6th - 2:00 P.M.
Blessed Sacrament
2130 S. Central Park
Chicago, Illinois 60623

Area C: December 7th - 10:00 A.M.
Center for Urban Education
2401 West Walton
Chicago, Illinois 60622

Thank you.

Sincerely yours,

John R. Buckley
Coordinator, Government Funded Programs

JRB:jr

Name of School ______________________ Date ____________

Listed below are basic educational needs. Please rank your pupils' needs at your school. Place a "1" in the box to the left of your first choice. Place a "2" in the box to the left of your second choice and place a "3" in the box to the left of your third choice, etc.

☐ Reading Skills	☐ Arithmetic Skills
☐ Science Skills	☐ Understanding and Speaking English (TESL)
☐ Guidance and Counseling for Elementary Pupils	☐ Community Involvement and Relations
☐ Family Guidance	☐ Other (Specify)

After your needs have been determined, the severity of need and the number of Title I pupils in your school must be indicated.

For Example: If you chose Reading Skills as one of your needs, fill in the appropriate boxes with number of pupils. If you indicated additional needs, fill in boxes for each specific need.

Number of children in need of Services:

	Primary Kg - 3	Intermediate and Upper (Gr. 4-8) 1 yr. below level	Intermediate and Upper (Gr. 4-8) 2 or more yrs. below level
Reading Skills	☐	☐	☐
Arithmetic Skills	☐	☐	☐
Science Skills	☐	☐	☐

Special Needs:	Number of TESL Children who speak and write no or little English	Number of TESL Children who need reading and writing skills
Understanding and Speaking English (TESL)	☐	☐

EXHIBIT A

ESEA, Title I Pupils' Needs - Page Two

Special Services:

	Primary Kg.-3	Intermediate 4 - 6	Upper Grades 7 - 8
Guidance and Counseling	☐	☐	☐

Family Guidance (Social Adjustment Center) _____ Total number of families who have a serious need.

Community Involvement _____ Total of Title I students in your school

Supportive Services:

Supportive Services can be offered only to children in Reading or Arithmetic Skills programs. You may indicate the need of one or all of the following supportive services: Place an "X" in the appropriate box.

☐ Outdoor Education and Camping

☐ Field Experiences

☐ Health Services

☐ Mobile Instructional Laboratories (Science, Reading, Art)

☐ Computer Assisted Instruction

☐ School Community Representative (Phase Out Program)

☐ Other (Specify)

____
President of the School Board
or Advisory Council

Please return to:

____
Principal

Mr. Donald J. Geary...... by February 1, 1973
Board of Education-Rm.#1142
228 North LaSalle Street
Chicago, Illinois 60601

Program Modifications

Suggestions for New Programs

School

Signature of Principal

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EXHIBIT B PLANNING GUIDE FOR ESEA - TITLE I

NONPUBLIC SCHOOL______________________PUBLIC SCHOOL________________

Principal____________________Date________ Area______ District_____

Pupils from Low Income
Families (Elementary Schools)________ x $350/pupil = $_______Total Allotmen

As indicated below, we intend using our allocation of ESEA funds to provide the following programs.

PROGRAM I

	Activity	Gr./Lev. of Pupils	# of Pupils to be served	Cost per pupil	Unit Cost	Total Alloca- ion Us
2	(PSD) Individualized Instruction for Continuous Development	P1 - 6 P1 - 6	35 35	$452 636	$15,820 22,260	
3	(SAK) Corrective and Remedial Reading Instruction	P1 - 8 P1 - 8	35 50	452 448	15,820 22,400	
5	Programmed Reading Instruction	P1-P3	50	460	23,000	
6	Skills to Help Accelerate Reading Progress	P1 - 8	50	467	23,350	
7	Special Program to Upgrade Reading	P1 - 8	50	472	23,600	
8	Reading Systems for Primary Levels	P1 - 2	50	464	23,200	
10	Parallestic Reading Program	P1 - 8	50	481	24,050	
12	Learning System for Total Individualization in Reading and Mathematics	P2 - 8 P2 - 8 P2 - 3	80 112 160	326 244 237	26,080 27,328 37,920	
13	The Learning Game	Pz - 8	160	290	46,400	

Sub Total - Program I $______

PROGRAM II

	Activity for Non-English Speaking Children	K - 8	50	$324	$16,200	
	Individualized Mathematics Instruction	4 - 8	50	450	22,500	
	Guidance for Elementary Pupils	P3 - 8	80	199	15,920	

Sub Total - Program II $______

Activity	Gr./Lev. of Pupils	# of Pupils to be served	Cost per pupil	Unit Cost	Total Allocation
Cluster Closed-Circuit Television	K - 8		$5,000	$5,000	
Outdoor Education	PI - 8		114		
Field Experiences	K - 8		4		
Health Services	K - 8		59		
School - Community Identification	K - 8	35 70	93 93	3,255 6,510	

Sub Total - Program III $_____

GRAND TOTAL $____________________

____
Signature of Principal

ne 8, 1972

Statement of

Francis N. Scholtz
Coordinator of Education
Diocese of Sioux Falls
Sioux Falls, South Dakota

Before the
General Subcommittee on Education
Committee on Education and Labor
United States House of Representatives
Rayburn Building
Thursday, March 1, 1973
9:30 a.m.

As a member of the South Dakota Title III Advisory Council, I represent the 85 nonpublic schools of South Dakota on that Council. The nonpublic schools educate about 6% of the children in South Dakota. I am grateful for this opportunity to submit a statement to the Subcommittee on behalf both of South Dakota's nonpublic school children and of Title III of the Elementary and Secondary Education Act.

In my judgment, Title III is potentially the most effective force for constructive educational innovation and change in South Dakota. As a Title III State Advisory Council member for three years, I would make the following additional observations.

1. The potential impact of Title III is still to be realized. Thousands of South Dakota children stand to benefit in districts that would be adopting proven Title III projects that have been validated as innovative, cost effective, educationally productive and exportable.
2. The role of the Council in policy making, evaluating proposals to be funded and, finally, viewing and evaluating the project "on site" has resulted in promoting financial and educational accountability.
3. The uniqueness of the Council membership combined with the Council's policy making role contributed greatly to the improvement of the administration of Title III in South Dakota. EXAMPLE: Initially only large school districts could afford to employ the "grantsmanship" expertise needed to write proposals. The South Dakota

Title III Advisory Council, recognizing the inequity, changed the procedure for submitting proposals, enabling all school districts, large or small, to compete equally for Title III funding.

From the perspective of a nonpublic school representative on a Title III State Advisory Council, I would make these additional comments.

1. The participation of nonpublic school children in Title III projects has gradually improved during my three years as a member of the State Advisory Council. This was due to the opportunity to participate in policy making as well as the contacts made with public school districts as a result of Council activities.
2. Nonpublic school representation on the Council also resulted in a greater acceptance of the nonpublic school as "partners" in attempting to improve education for all South Dakota children.
3. A more positive relationship has develcped between the State Department of Public Instruction and the nonpublic school sector.
4. A gradual awareness and a sensitivity to the needs and rights of nonpublic school children was brought to the State and particularly to the public school districts funded for Title III projects as a result of Council membership.

In closing, I would recommend:

1. The continuation of Title III in order to further promote innovation, constructive educational change and accountability.
2. Precise language in the law regarding the participation of nonpublic school children. This will result in better relations between public and nonpublic administrators at the local level.
3. Provision in the law which would encourage initiation of Title III projects from the nonpublic sector.
4. Clear indication in the law which would mandate that a nonpublic school representative be a bona fide member of the Title III State Advisory Council.

Statement of

Joseph P. McElligott
Director
Division of Education
California Catholic Conference

Before the
General Subcommittee on Education
Committee on Education and Labor
United States House of Representatives
Rayburn Building
Thursday, March 1, 1973
9:30 a.m.

The Division of Education of the California Catholic Conference is responsible for the coordination of various educational programs for students in the nine Catholic school systems of California (i.e., the 770 elementary and secondary schools operated by the Archdioceses of Los Angeles and San Francisco and the Dioceses of Fresno, Monterey, Oakland, Sacramento, San Diego, Santa Rosa, and Stockton). One of the Division's areas of responsibility is that of assisting Catholic school personnel in obtaining needed educational services for eligible students under programs authorized by Congress and administered by local public school districts.

The Bilingual Education Act (Title VII, ESEA) has been a laudatory effort on the part of Congress to meet the special educational needs of children who have limited English speaking ability, who come from environments where the dominant language is one other than English, and who come from low income families. The need for bilingual education services is particularly acute in California where 16% of the public school student population and 21% of the Catholic school student population are Spanish surnamed youngsters.

It is to these unmet needs of eligible nonpublic school students that we respectfully call your attention.

Currently in operation in California are some 60 Title VII Bilingual Education projects whose combined annual budgets amount to 10 million dollars. These projects, administered by local educational agencies, provide bilingual services to some 20,000 California youngsters.

Our investigation of these California projects indicates that there may be some failure on the part of local educational agencies and/or the U. S. Office of Education to make provisions for the participation of eligible children attending nonprofit private schools in ESEA Title VII programs. We use the words "may be" because we have experienced some difficulty in obtaining specific information regarding nonpublic school student participation from the U. S. Office of Education and local educational agencies.

From the information we have received, however, the picture looks like this:

a) Only one out of every ten California projects provide bilingual services to nonpublic school students.

b) While 10% of California's Spanish surnamed students are enrolled in Catholic elementary and secondary schools, only 2% of Title VII project participants are nonpublic school students.

c) While 2% of the State's Title VII project participants are nonpublic school students, only 1% of the State's ESEA Title VII federal funds are expended on services for these students.

From these figures, and after consultation with many of our local school administrators, we have concluded and wish to point out that a serious problem appears to exist in the matter of extending bilingual education services to eligible nonpublic school students.

It is our opinion that the problem is an administrative one and centers around three issues.

1) local needs assessment activities which overlook the needs of potential project participants in attendance at nonpublic schools

2) local project planning activities which fail to involve persons knowledgeable about nonpublic school students

3) federal grant approval processes which inadequately monitor the assurances of local educational agencies regarding the provisions for participation of nonpublic school students.

In order to remedy the problem, we respectfully suggest that the Subcommittee consider some minor changes in the Bilingual Education Act--changes which we believe will help direct the federal benefits to some students who are in need and have been overlooked or "short-changed" in the past four years.

1) We suggest that, as in other Titles of the Elementary and Secondary Education Act, local educational agencies be advised to involve people knowledgeable about the needs of children attending nonprofit private schools in ESEA Title VII needs assessment and program planning activities. We suggest that this involvement be incorporated into assurances given by the local educational agency.

2) We suggest that the U. S. Office of Education more adequately investigate the nonpublic school student assurances given by local educational agencies prior to the issuance of federal grants.

3) Above all, we respectfully ask that language be inserted in the law to raise the quality of service to eligible nonpublic school students above its present state of tokenism. We suggest that local educational agencies be required to make provision for the effective participation of nonpublic school students on an equitable basis consistent with their numbers and with their educational needs.

On behalf of California's Catholic school students and their parents, we wish to express thanks to the Subcommittee for your concern for nonpublic school students in programs of the Elementary and Secondary Education Act and for the opportunity to comment on federal educational programs in the State of California.

Excerpted from

EDUCATING THE DISADVANTAGED CHILD: WHERE WE STAND

Annual Report to the President and the Congress, 1972

Published by
National Advisory Council on the
Education of Disadvantaged Children

Pages 27-29

BEST COPY AVAILABLE

THE PRIVATE SCHOOLS[1]

In 1969 this Council devoted a major portion of its *Fourth Annual Report* to the participation of nonpublic school children in title I programs. The report highlighted several problems at the Federal, State, and local levels and made several specific recommendations that would insure that the mandate for such participation (section 116.19) would be administered to afford equal opportunity for participation to eligible children enrolled in nonpublic schools.

The Council reviewed this regulation and its administration again this year, consulting extensively with public and nonpublic school officials, at all levels. On the basis of this review, the Council has concluded that, while there has been marked improvement in administration of this provision of the law especially at the Federal level, there remain many administrative problems at the LEA level which still impede proper compliance with the law, and in fact, reduce the chances of participation for many eligible children, solely because they attend nonpublic schools.

The Council emphasizes "administrative problems" because there appears to be remarkable consensus that the congressional mandate in the law gives adequate direction and scope to administrators at all levels in both sectors, and that only limited changes in the legislation itself (specified below) need be recommended in order to improve the participation of nonpublic school children.

Legislative Provisions

While there is evidence of improvement in most States in the acceptance and implementation of this provision by the public education agencies legally responsibile for administering it, there nevertheless remain many instances in which provisions of State constitutions or administrative policies of State or local agencies effectively or completely prevent equitable participation.

In view of the wide disparity among States in this regard and resulting inequities in opportunity and participation by nonpublic school children, the Council recommends that section 143 of title I be amended to incorporate a "bypass" mechanism, similar to title III ESEA, section 307 f(1-2).

> (f) (1) In any State which has a State plan approved under section 305(c) and in which no State agency is authorized by law to provide, or in which there is a substantial failure to provide, for effective participation on an equitable basis in programs authorized by this title by children enrolled in any one or more private elementary or secondary schools of such State in the area or areas served by such programs, the Commissioner shall arrange for the provision, on an equitable basis, of such programs and shall pay the costs thereof for any fiscal year out of that State's allotment. The Commissioner may arrange for such programs through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.
>
> (2) In determining the amount to be withheld from any State's allotment for the provision of such programs, the Commissioner shall take into account the number of children and teachers in the area or areas served by such programs who are excluded from participation therein and who, except for such exclusion, might reasonably have been expected to participate.

The Council has studied the other bypass provisions already available in ESEA and concurs with private school practitioners that this is the most inclusive and most sophisticated provision for this purpose.

Planning and Evaluation

In its *Fourth Annual Report* (1969) this Council emphasized the need for nonpublic school officials to be involved in the planning and evaluation of title I programs designed to serve disadvantaged children enrolled in nonpublic schools. The Office of Education regulations are now more explicit in requiring public school officials to consult "with persons knowledgeable of the needs of these private school children and assigned a consultative role to private school 'authorities' and private school officials." The Office of Education's recently released handbook *Participation of Private School Children* includes a section on the "Role of the Private School Administrator" which states, in part:

> The regulations regard consultation with private school representatives as something apart from meetings with advisory committees or parent councils. The consultation with private school representatives would be of a detailed and technical nature, getting into the areas of diagnosis, needs assessment, evaluation design, etc. The results of this type of consultation would be

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[1] Although the legislation refers to those participants as children attending the "private schools," many documents do not. The terms "private" and "nonpublic" are used herein interchangeably, with the preferred usage being "private schools," for compatibility with the regulations.

brought to an advisory committee or parent council, consequently, the inclusion of a private school representative on an advisory committee or a parent council does not automatically insure compliance.

This stress on the involvement of nonpublic school officials in planning is an excellent addition to the earlier Federal guidelines but the disregard of these institutions in a number of States leads the Council to recommend a careful check on compliance. It is suggested that project applications and statistical report forms be revised so that the local education agencies must demonstrate the involvement of private school officials in the planning of programs to serve disadvantaged children in nonpublic schools and in the collection and reporting of data for evaluating programs. It is also recommended that the project application include a provision by which designated nonpublic school authorities will verify and concur in the data presented and the planning and program provisions of the application. The requirement of this "signoff" provision should greatly increase the participation of nonpublic school officials in planning and evaluation of projects.

The Council believes that the participation of nonpublic school children would be improved if the regulations encouraged or required the establishment of State advisory councils on which representatives from the nonpublic schools would be included.

A further recommendation for improving State and local compliance with the regulations and guidelines is to establish appropriate review and complaint procedures when noncompliance by a State or local education agency is alleged. Presently, there is no recourse for the nonpublic school administrators who allege noncompliance.

State Allotments and Nonpublic School Eligible Children

A State receives its title I allotment based upon the number of children who qualify under a given legislated poverty formula. At this point, the State education agency does not know how many eligible children attend nonpublic schools.

After receiving its allotment, the State must then distribute the funds according to applications from LEA's which send it legal, qualifying proposals. It is at this point that a determination of the number of nonpublic school eligible children should be made.

For example, in New York State, all children are tested on the Pupil Evaluation Program (PEP) testing instrument, and receive a stanine rating in the 3d, 6th, and 9th grades. New York State determines that any child below the 4th stanine is educationally disadvantaged.[2] Ten to 14 percent of all children in the State who have been determined in this manner to be disadvantaged attend nonpublic schools.

The Archdiocese of New York has taken this one step further. In 1970-71 they sampled 25 percent of the children in New York City who live in the sharply delineated poverty area. Based upon the PEP test results, 7.7 percent of these children attended the nonpublic schools in New York City. Again in 1971-72, they surveyed all the students in the poverty area using the PEP scores, and had received 75 percent response to date. Again, 7.7 percent of the eligible children (according to this determination) are enrolled in the nonpublic schools.

New York City gives 5.6 percent or $7 million of service to the nonpublic school eligible children, a full $3 million less than 7.7 percent of the city funding allotment would provide. An increase of 50 percent would enhance immeasurably the opportunity for the title I-eligible children attending nonpublic schools in New York City. The loss of the $3 million to the city's title I budget would represent a loss of 2.1 percent and would have an effect, but not as dramatic an effect as the nonpublic schools envision.

The NACEDC recommends that all LEA's should, in their needs assessment, determine, according to the poverty formula and some other educational standard, the educationally disadvantaged children attending their nonpublic schools.

The NACEDC recommends further that these statistics on nonpublic school enrollments be applied to the determination of the title I application from the public school district, so that nonpublic school children receive an equitable share of services based upon the proportion of nonpublic school children to the total number of eligible children in the district.

Improving Practical Opportunity for Participation

In several circumstances, it is difficult if not impossible to provide title I services to disadvantaged children enrolled in nonpublic schools. In some cases, the entitlement of a local education agency is inadequate to support a substantial program. Also, eligible children are too few in number in any one school site to justify a substantial "target school" program. There are also cases in which a significant number of eligible children attend nonpublic schools outside the boundaries of the local education agency.

The NACEDC recommends that OE implement an equitable and workable solution to this problem to be effective at the start of fiscal year 1973.

In 1969 the Council reported that "private school children often participate in programs only a few hours each month, and in programs not designed for their special needs." The more comprehensive and systematic involvement of nonpublic school officials as recommended above should greatly improve this situation.

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[2] This would mean that the child lags behind his class by 1 to 2 years in achievement.

The NACEDC recommends that services to disadvantaged children enrolled in nonpublic schools be provided in a manner and location most appropriate to the nature of the program and to the population to be served.

Reporting and Dissemination

As previously noted, the Office of Education has recently published a handbook for State and local school officials entitled *Participation of Private School Children.* This is a great step forward in following the recommendation of this Council in 1969 that "the Office of Education put into one updated document regulations and requirements on the participation of nonpublic school children in the various aspects of the title I program."

A related recommendation in the 1969 report "that the Office of Education disseminate examples of programs of successful participation of nonpublic school pupils" has not yet been implemented. The Council considers this an important way to focus attention on promising practices rather than to restrict concern to the formal requirements of the law. To be most effective, this dissemination should include seminars and workshops as well as written descriptions of programs.

This would overcome the persistent problem faced by public school administrators baffled by their inability to plan useful title I projects for disadvantaged children attending nonpublic schools. Such inability is often due not to incompetence, but to confusion about the network of laws, and regulations governing aid to children enrolled in private schools.

As the preface states in the new Office of Education handbook: "The provision of services for children enrolled in private schools called for a whole new set of relationships, both administrative and programmatic, to be established and maintained. At the outset, no one really knew a 'best way' to implement the law as it affected private school children."

The handbook not only contains a compilation under one cover of the excerpts from the law relevant to serving disadvantaged children enrolled in nonpublic schools, and the regulations and guidelines that pertain to their participation (with a brief explanation of these provisions), but also outlines some of the problems encountered at State and local levels and some possible solutions including suggested procedures in project development to create opportunities for meaningful participation. If the distribution of this helpful handbook can be followed by seminars and workshops, the Council believes that the development of meaningful programs for nonpublic school children and their participation in them will be greatly improved.

Constitutionality

First, the Council would like to begin this section of the report with the statement that *at no time* is title I money turned over to nonpublic school administrators. This is in direct observance of numerous laws, including the constitutional amendment governing separation of church and state.

The Council would like to point out that many of the legal and constitutional obstacles to State administration of title I for nonpublic school children have been overcome. Many State and local education agencies found severe restrictions with respect to their respective State constitutions and statutes and the application of title I to nonpublic school children. Note that while State constitutions and statutes restrict the options available to provide services to eligible nonpublic school children, this, in fact, does not relieve that agency of its legal responsibility to approve title I applications which meet requirements set forth in Federal law, regulations, and guidelines.

In order to receive title I funds, the State Attorney General must sign an assurance to the U.S. Commissioner of Education stating that all title I regulations will be observed, even if they conflict with State law. Yet with respect to three States—Missouri, Nebraska, and Oklahoma—the Office of Education is aware of noncompliance with the regulations, section 116.19, on service to children enrolled in nonpublic schools, and no enforcement action has been initiated.

The Council recommends that any State which is not in compliance with section 116.19 be informed of the Commissioner's intention to enforce the law, by the end of fiscal year 1972.

Conclusion

The Council believes that the guidelines and regulations as they affect the nonpublic school child are generally well-defined, workable, and meaningful. The breakdown comes in the interpretation and enforcement of the guidelines. This is the area needing improvement.

The main purpose of our effort is to develop implementation at the local and State levels in order to meet the requirements of the law and to enable the children in the nonpublic schools to get the services that they need and that they are entitled to receive under title I.

We hope that the above recommendations, achieved in concert with participation of private school practitioners at a NACEDC conference in Chicago in early January 1972, will begin to remedy an obvious weak link in the administration of title I. We also hope that participation we have encouraged among the private school administrators will not cease with the Chicago meeting, but continue throughout the year, so that it may illumine for us the difficulties administrators face in providing day-to-day services to disadvantaged children in a most dedicated and appreciated way.

Excerpted from

AMERICA'S EDUCATIONALLY NEGLECTED
A Progress Report on Compensatory Education

Annual Report to the President and the Congress/1973

Published by
National Advisory Council on the
Education of Disadvantaged Children

Pages 35-37

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS[1]

The Council has consistently supported the need for Federal financial support to the educational programs of disadvantaged children, wherever they attend school. Past Council reports have recommended that special arrangements be made to deliver remedial services to title I eligible children who attend the nonpublic schools, as long as the two longstanding guarantees are maintained:

1. That services are given to educationally deprived children who attend nonpublic schools which can meet the standards of the Civil Rights Act, and which are not deliberately segregated academies.
2. That services which are secular and specifically designed to raise the educational attainment of the educationally disadvantaged children are provided to educationally deprived children attending nonpublic schools.

Most leaders of the nonpublic school systems are cognizant of the above two guarantees, and have repeatedly demonstrated their good faith to observe these qualifiers. Experience has demonstrated that they have worked well within these guidelines, and that many outstanding projects have been provided to educationally disadvantaged children who attend nonpublic schools.

The economic status of all family members, ages 3-17, by family income and race, is found in the table below, and appears in Senator Walter Mondale's Select Committee on Equal Educational Opportunity final report.[1]

From these figures it appears that one out of every nine children attends school in a nonpublic school.

The implications for serving eligible children

Table 1-2.—Economic status of family members, ages 3-17, by family income and race[1]

[Numbers in thousands and percentages]

	Total	Under $3,000	$3,000 to $4,999	Under $5,000	$5,000 to $7,499	$7,500 to $9,999	$10,000 to $14,999	$15.00 to plus	Not reported
All children	59,081	4,012	6,894	10,906	9,815	10,740	14,379	9,103	4,139
Percent		6.7	11.6	18.4	16.6	18.1	24.3	15.4	7.0
Total enrolled, all schools	51,874	3,254	5,819	9,073	8,342	9,298	12,969	8,574	3,589
Percent		6.2	11.2	17.5	16.1	18.0	25.0	16.5	7.0
Total enrolled in public preschools and schools	45,770	3,144	5,556	8,700	7,687	8,202	11,084	6,985	3,114
Percent		6.8	12.1	19.0	16.7	17.9	24.2	15.2	6.8
Total not enrolled in schools	7,235	757	1,076	1,833	1,473	1,442	1,410	529	505
Percent		10.4	14.3	25.3	20.3	19.9	19.4	7.2	7.6
Total enrolled in private schools	6,077	110	263	373	655	1,096	1,885	1,589	475
Percent		1.8	4.3	6.1	10.7	18.0	31.0	26.1	7.8
All white children	49,946	2,230	4,651	6,881	7,903	9,617	13,509	8,568	3,467
Percent		4.5	9.3	13.8	15.9	19.2	27.0	17.1	6.9
All nonwhite children	9,135	1,782	2,243	4,025	1,912	1,123	870	535	672
Percent		2.0	24.0	44.1	21.0	12.2	9.5	5.8	7.3
All black children	8,334	1,747	2,153	3,900	1,754	1,008	738	363	572
Percent		21.0	25.8	46.8	21.0	12.1	8.8	4.3	6.8

[1] Numbers and percentages in this and other tables in this chapter may not total due to standard statistical error, rounding, etc. They are, however, accurate estimates derived from separate 1970 Census Reports.

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[1] Although the legislaiton refers to these participants as children attending the "private schools," many documents do not. The terms "private" and "nonpublic" are used herein interchangeably, with the preferred usage being "private schools," for compatibility with the regulations.

within a large school system can be illustrated by Chicago, Ill. The public school systems enrolls 557,255 children.

The Catholic school system of Chicago, according to Reverend H. Robert Clark, superintendent of the Archdiocese of Chicago, enrolls 250,000, 31 percent of the total enrollment in both the public and nonpublic school systems.

The public school system estimates that 250,000, or 45 percent of their enrollment, are children from areas of high concentrations of low-income families.

The public schools serve 47,200 children with title I funds, and an additional 4,800 students enrolled in the Catholic schools for a total of approximately 52,000 children.

The public schools are serving what they consider to be 99 percent of their eligible student population, whereas, the Catholic system receives services for 16 percent of their eligible student population.

The Catholic system has a total of 8 percent of the total title I students who are served, and 11 percent of the total student population estimated by the administrators of each system to be eligible according to the poverty factors. The 3-percent differential means at least $184,000 or 920 more children could be served in nonpublic schools, if these children were served with the Illinois State mandate of $200 per child, and if direct ratios were used to allocate services funded by title I, ESEA, in a local school district.

Further, the city of Chicago was scheduled to receive $35,579,236 in title I funds for fiscal year 1973. Since the Catholic system has 11 percent of the eligible children, and if the public schools supplied services for 11 percent of the total participants in both systems, so that 11 percent of the participants were nonpublic school children, they would be entitled to a value of $3,913,715.96 in services.

The NACEDC recommends, therefore, that especially in the urban settings, the Federal-State-local partnership should do everything legally possible to provide remedial services to these eligible children, wherever they attend school.

The NACEDC states that the facts have demonstrated that partnership between nonpublic and public school administrators can function locally and with the ultimate benefit to the children in need. **The NACEDC further recommends that certain steps be taken to maximize the partnership between the public and nonpublic schools in serving disadvantaged children by:**

- **—Involving nonpublic school administrators in the total planning process for compensatory education projects (i.e., determining target areas, identifying target populations, participating in needs assessments, selecting eligible children, consulting during the program design, and participating in program evaluations).**
- **—A bypass mechanism be provided in any compensatory education legislation to permit the U.S. Commissioner of Education to enable services providing effective participation of eligible nonpublic school children wherever they attend school, if State laws conflict with Federal mandates, or if there is substantial failure to provide comparable services by a local education agency.**
- **—Establishing a position in the Department of HEW, at the level of the Secretary of HEW's cabinet, which is responsible to the ombudsman for the 6 million nonpublic school clients.**
- **—Providing comparability of services, wherever they attend school.**

The State of Missouri, which we mentioned last year in regard to its special problems implementing title I, ESEA, is again having difficulties implementing its program for children enrolled in the nonpublic schools.

Missouri State law, as interpreted by the State department of education, prohibits the expenditure of public funds for services to children enrolled in the nonpublic schools, although it does permit the provision of supplies and equipment.

A court challenge by Mrs. Anna Barrera of Kansas City, Mo., in behalf of the State's nonpublic school enrollment has been decided.

Anna Barrera v. Hubert Wheeler, 72-1440, Eighth Circuit U.S. Court of Appeals, Kansas City, Mo., charged the following inequities to disadvantaged children enrolled in the nonpublic schools in the State:

1. That ESEA title I law and regulations specifically provide for the comparable services of comparable size, scope, and

quality, for children enrolled in the nonpublic schools.

2. That the defendant (the State school commissioner and the State school board) are not excused from compliance by relying upon their own interpretation of State law.
3. That it is lawful and proper to provide these services.
4. That the intention of Congress was that the local education agencies provide the program design, and not the State agency.
5. That ESEA requirements are not satisfied in the after school and summer programs to nonpublic school students.
6. That there have been noncomparable expenditures and that the plaintiffs are entitled to relief.

The NACEDC supports the position of the Office of Education to submit an *amicus curiae* brief in an instance like this. The court's decision was in favor of Anna Barrera, and also that public school teachers can teach on the premises of nonpublic schools, if that is the only way comparable services can be provided. There will be no retroactive damages awarded. The necessity of this suit could have been averted by the bypass mechanism which was offered by the Council in the 1972 annual report as a recommendation. The NACEDC recommended bypass states:

> (f) (1) In any State which has a State plan approved under section 305(c) and in which no State agency is authorized by law to provide, or in which there is a substantial failure to provide, for effective participation on an equitable basis in programs authorized by this title by children enrolled in any one or more private elementary or secondary schools of such State in the area or areas served by such programs, the Commissioner shall arrange for the provision, on an equitable basis, of such programs and shall pay the costs thereof for any fiscal year out of that State's allotment. The Commissioner may arrange for such programs through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.
>
> (2) In determining the amount to be withheld from any State's allotment for the provision of such programs the Commissioner shall take into account the number of children and teachers in the area or areas served by such programs who are excluded from participation therein and who, except for such exclusion, might reasonably have been expected to participate.*

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*Title III, ESEA, sec. 307(f)1-2.

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Executive Secretary
BYRON W. HANSFORD

CHIEF STATE SCHOOL OFFICERS COUNCIL

November 15, 1973

Honorable Claiborne Pell
325 Old Senate Office Building
Washington, D.C.

Dear Senator Pell:

I am writing you in reference to S.1318, the Elementary School Reading Emphasis Act of 1973, and of S.2069, the National Reading Improvement Act of 1973. We wish to indicate our full support for the funding procedures described in Senator Eagleton's bill, S.2069. Also, we were very favorably impressed with the substantive concepts advanced in Senator Beall's bill, S.1318, but unfortunately cannot give our full endorsement to S.1318 until the funding mechanisms have been clarified.

We agree with Senator Beall, who in introducing S.1318, explicated the need for such enactment:

> ...some 18½ million adults are functional illiterates;
> ...some 7 million elementary and secondary children are in severe need of special reading assistance;
> ...in large urban areas, 40 to 50 percent of its children are reading below grade level;
> ...90 percent of the 700,000 students who drop out of school annually are classified as poor readers.

S.1318 is an improvement over similar bills which have been introduced since it takes an innovative approach to solving a critical need. The emphasis of the bill is on diagnostic and preventive action rather than on remedial, which research clearly indicates has not done the job. In short, the bill"...seeks to prevent reading problems from developing, to identify them immediately when they do, and to provide for prompt remediation once such problems are identified."

In addition the bill calls not only for the development of curriculum guides, but for the pre-service and in-service training of teachers in using such guides. Reading specialists will be used as resource people to the teachers and public television would also be utilized in providing such training. The development of curriculum guides without the incumbent training to utilize the guides would be folly. As the bill is formulated it is our opinion that it is more effective both in terms of educational results and cost effectiveness than previous remedial endeavors.

Our main concern in reference to S.1318 deals with procedural mechanisms in getting the money to local school districts. Language in reference to the role of the state educational agency in the funding process is ambiguous but to all appearances one could assume that the United States Office of Education would deal directly with local education agencies. The Council is basically opposed to such a concept and feels strongly that the Office of Education should cooperate in an advisory capacity with state education agencies in the planning, implementation, and evaluation of the various state plans. Indeed, leadership in this area should come from the state agency and not USOE. A concerted effort should be made to assure redirection of funds for the implementation of state right-to-read plans. Each state should establish a "comparable state reading center" which would enable the U.S. Office of Education to coordinate state and federal efforts. We feel strongly that the state agency is in a much better position to know the needs of the state than the U.S. Office of Education.

However, Senator Eagleton's bill, S.2069, does provide the necessary funding procedures which would provide for greater state involvement in the implementation of a national reading program. We urge a consolidation of the funding mechanisms of S.2069 with the program concepts in S.1318, which would result in a state project grant program.

At this time I should also like to again take the opportunity to commend your leadership of the Senate Education Subcommittee. The Council of Chief State School Officers wishes to assist your Committee in every way as you deliberate on the Elementary and Secondary Education Act.

Sincerely,

Ray Peterson

for Byron W. Hansford
Executive Secretary

NCAWe
NATIONAL COUNCIL OF ADMINISTRATIVE WOMEN IN EDUCATION
1815 FORT MYER DRIVE NORTH, ARLINGTON, VIRGINIA 22209

Statement in support of S 1539
submitted to the Subcommittee on Education
of the
Senate Committee on Labor and Public Welfare
By C. Fern Ritter, President
of the
National Council of Administrative Women in Education

The National Council of Administrative Women in Education, which was organized some sixty years ago, has not taken legislative positions until recently. This change in policy has come about because we believe that in these times, and in the light of our experience as Administrators and as women we must accept responsibility for making ourselves heard on matters of public policy in areas in which we have a special competence.

As women whose days are occupied by administrative responsibilities the members of the NCAWE are in position to know that the Elementary and Secondary Education Act of 1965, and related education Acts, have contributed very substantially to the well-being of the schools of the United States.

As administrators we also are quite aware of some of the shortcomings of the present ESEA. However we believe uninterrupted extension -- with such modifications as are necessary and easily agreed upon - - of the programs authorized under the ESEA is of the utmost importance not only to education but to the general welfare of the nation. We think that prolonged debate in the next session of the 93rd Congress over Title I formulae, over badly needed simplification of present procedures, over revenue sharing versus categorical grants, etc, could be very harmful to the Country's overall educational system if permitted to continue past the period when schools at all levels must go into their planning for another school year.

Although a simple extension now is the considered recommendation of the NCAWE we are very much interested in proposals of both the bill being drafted in the House Education and Labor Committee and in those carried in S 1539.

Several provisions under Title IV of S 1539 are particularly interesting to us. We recognize that collection of statistical data on a national basis is woefully in need of improvement. Several years ago a Commissioner of Education used to say the Federal Government knew more about the production and marketing of pigs than it did about education of its children. Admitedly progress has been made in the intervening period but the need for better data remains urgent.

There is some question in our minds about the separation of functions in an Education Division within the Department of Health, Education and Welfare, between the three agencies that would be set up under Sec. 401 (b) of S 1539. Unless the functions 1) of the Office of Education 2) the National Institute of Education and 3) the new National Center for Education Statistics are very clearly delineated we can see a danger of overlapping functions, considerable duplication of paper work, and a substantial confusion at the operational level of the schools. Not to mention a breakdown in communications at all levels.

Since we believe education is not only the biggest, but the most important business of the nation we in NCAWE believe in the need for an advisory group which could study and make recommendations on the educational needs of the nation - - much as the Council of Economic Advisors has functioned in relation to the economy. It is our belief that such a Commission or Council should represent all segments of American Society, e. g. cultural, business, industry, science, the arts, the humanities and the educational community.

We also can see a role for a joint House-Senate Committee, which could function in the manner of other Joint Congressional Committees, to take testimony on national educational needs; to assess current progress and make recommendations on the coordination into a meaningful whole of the diverse and separate educational programs of various Federal Agencies. It is not clear to us from S 1539 whether these are the purposes of the National Commission on Education Policy Planning and Evaluation proposed in S 1539.

We are delighted to hear that the goals of the Women's Equity Act have been incorporated into the draft bill S 1539. We earnestly hope these provisions will be included in the final version of the bill enacted by the Congress.

In conclusion we wish to compliment the Chairman Senator Pell and members of this Committee upon opening up these problems for discussion and solution and we urge you to continue your deliberations in depth after a simple extension of the ESEA has been effected. For we in NCAWE believe that in these days of mobile population, and rapidly shifting social and economic patterns and in the interest of equalization of educational opportunity for all, the Federal Government's share of the cost of maintaining the nation's educational efforts will inevitably have to be raised in some fashion, e.g. revenue sharing or grants-in-aid. As we all know the individuals' need for more information and more education has increased dramatically in recent years and there are no signs of abatement in the demand for new knowledge.

WASHINGTON RESEARCH PROJECT ACTION COUNCIL
1763 R STREET, N. W.
WASHINGTON, D. C. 20009
(202) 483-1470

October 29, 1973

The Honorable Claiborne Pell
Chairman, Subcommittee on Education
Committee on Labor and Public Welfare
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As an organization concerned with equal educational opportunity and with the implementation of federal programs designed to promote that objective, the Washington Research Project Action Council appreciates this opportunity to provide you and the members of the Subcommittee with our views on pending legislation to extend the Elementary and Secondary Education Act. We strongly support the extension of Title I with its unique and indispensible requirements for parent participation, non-supplanting, comparability, and concentration. However, we are deeply disturbed by proposals which would shift the basis for determining educational disadvantage and distributing Title I funds from income criteria to performance of students as determined by test scores. Such proposals represent a fundamental alteration of Title I which would subvert the purposes of the program and accelerate already dangerous trends in the public schools to label and classify children in a manner that denies them equal educational opportunity and virtually assures their failure.

The use of testing as the basis for distributing Title I funds raises a number of problems, among them the following:

1.) It would dilute the impact of Title I funds by spreading them broadly instead of focusing them, as they are now, on schools with high concentrations of educational disadvantage.

2.) It would utilize an unreliable method of measuring educational disadvantage. There is no agreement within the education community on the validity of testing as a means of measuring actual achievement.

3.) It could act as a disincentive to educational progress by rewarding schools for poor performance as determined by low test scores.

While these problems alone should provide sufficient reason for rejecting the testing proposals, our principal concern is the adverse educational and social effects on the children who would be labeled and categorized by any testing system.. Our investigations of schools around the country dramatically suggest that the stigma attached to a child by low test scores and the use of those scores as the sole justification for placing students in special classes would subvert whatever additional margin of funds might be brought into his or her school as a result of that testing.

The evidence which has been presented in a number of court cases dealing with educational finance and school desegregation has documented the extent to which low performance on tests is a factor of a student's being black, poor, non-English speaking, or otherwise culturally different, and not a measure of his or her ability to learn. Tests and the scores which result from them may seem to offer a deceptively simple assessment of a child's capacity, but they are totally unreliable. At best, they measure only a very narrow set of information and skills and are valid only for a very specific and homogenous group of children. A test which is developed to compare the performance of a group of children cannot diagnose the capacity of an individual child. And neither criterion-referenced tests nor standardized tests can reflect the affective styles and adaptive behavior which may be just as important to educational achievement as basic reading and math skills.

Given these limitations on tests, it is therefore inexcusable that they be used to stigmatize children in a manner that affects their perceptions of themselves and the perceptions of others about them, and that unjustifiably limits their educational opportunities.

Test scores place labels on children which become extremely difficult to shed. Teachers readily latch onto such labels and translate them into expectations for low performance. Studies have shown that teachers' attitudes toward their students' capacities to perform directly affect the actual performance of these students in the classroom. Such stigmatization of the child, often wrongly and unnecessarily applied, has a damaging psychological impact on that child that interferes with his or her self-concepts, motivation, and attitude toward school.

Once a label is attached to a child. for whatever reason, it becomes almost impossible to remove, regardless of any attempts to validate the inaccuracy of the label in the first place or to demonstrate the progress of the child which should warrant the elimination of the label. With the advent of computerized record keeping, especially in large school systems, it will become increasingly difficult to remove the label once it is made a part of the child's record. And without adequate safeguards to assure complete confidence for the student, already questionable test data may be used for purposes beyond the educational system.

It has been contended that some local education agencies already distribute their Title I funds on the basis of test scores. One can question whether that is valid under the current law, but it is critical to note that, in such situations, test scores are being used to compare and identify schools, not to categorize children within schools.

By basing distribution of Title I funds among states, within states, and within school districts on income factors, Congress has established a mechanism for channeling federal compensatory education money to the educationally disadvantaged without unnecessary and harmful stigmatization of children. The unreliability of testing, the potential dilution of funds, the disincentive to educational progress, and above all, the damage to children argue against any shift to testing as a method for allocating funds. We urge you to reject any such testing proposals that would alter the thrust of the Title I program and injure the children it was designed to assist.

Sincerely,

Marian Wright Edelman

CHIEF STATE SCHOOL OFFICERS COUNCIL

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LEONARD J. DELAYO
New Mexico Superintendent
of Public Instruction

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of Public Instruction

JOHN W. PORTER
Michigan Superintendent
of Public Instruction

WOODROW W. WILKERSON
Virginia Superintendent
of Public Instruction

Executive Secretary
BYRON W. HANSFORD

November 9, 1973

Honorable Claiborne Pell
325 Old Senate Office Building
Washington, D.C.

Dear Mr. Chairman:

I would like to express the views of the Council with regard to recent proposals in federal legislation to implement a program of testing students to determine educational needs, the test results to be used as a substitute for the present poverty criteria in federal legislation to aid educationally disadvantaged children. We would oppose the implementation of any student testing program as a criteria for granting federal aid except in specifically delimited experimental programs.

We would note first that Title I of the Elementary and Secondary Education Act specifically declares it to be the policy of the United States that children of low income families have special educational needs; to substitute any other criteria to replace low income would be a basic change in the purpose of Title I.

Secondly, we believe that there is no need to substitute other criteria since the best available research known to us specifically links low income with educational disadvantage.

It is very clearly our understanding that no adequate tests are in existence which could serve the purposes of a national measurement of educational need. In addition, the present state of art in the administration of educational tests (if such tests exist) is not adequate for the equitable implementation of a federal program.

While there are obviously severe legislative problems in the design of a distribution formula of Title I ESEA based on income criteria, we believe that these problems are not the result of inability to measure levels of income. Analyses by the Congress such as the report of the Select Committee on Equal Educational Opportunity indeed show that Title I ESEA funds are reaching poor children. The dilemma facing the Congress is based upon inadequate budget requests and appropriations to assist all of the low income students which can be identified in the various states. A substitution of new criteria for the selection of the target school population can only result in a dilution of funds away from those educationally disadvantaged children receiving benefits.

For these reasons, we urge that the Congress go no further with testing proposals as criteria for Title I than a limited pilot study.

Sincerely,

Byron W. Hansford

Byron W. Hansford
Executive Secretary

LEADERSHIP CONFERENCE ON CIVIL RIGHTS

ROY WILKINS, Chairman
ARNOLD ARONSON, Secretary
JOSEPH L. RAUH, JR., Counsel
BAYARD RUSTIN, Executive Committee Chairman
CLARENCE M. MITCHELL, Legislative Chairman
JAMES HAMILTON, Compliance & Enforcement Chairman
MARVIN CAPLAN, Director Washington Office
J. FRANCIS POHLHAUS, Special Consultant
YVONNE PRICE, Executive Assistant

2027 Mass. Ave., N.W., Washington, D.C. 20036 phone 667-1780 • New York address: 55 West 42nd St., New York 10036, phone 564-3450

October 30, 1973

Honorable Claiborne Pell
Chairman, Subcommittee on Education
Senate Committee on Labor and Public Welfare
4230 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Claiborne:

As you know, the Leadership Conference on Civil Rights and its 132 affiliated organizations have been strong supporters of the Elementary and Secondary Education Act of 1965 and the programs it authorizes, particularly Title I to help meet the special educational needs of children from low income families. We are therefore very interested in the current deliberations of the Subcommittee on Education on legislation to extend this vital education program which means so much to the children of America.

We have followed the markup of H.R. 69 in the House Committee on Education and Labor with considerable apprehension. In our judgment, the future of federal compensatory education activities under Title I could be jeopardized if certain provisions of the bill, as reported by the General Subcommittee on Education, were enacted into law. We have been in touch with members of the House Subcommittee to express our deep concern about proposals to permit the use of testing, with all the uncertainties and questions that raises, to be used as the basis for determining Title I eligibility. We hope those provisions will be stricken from the House bill, and we urge that you oppose any effort to incorporate similar provisions into the bill reported by your Subcommittee.

There are several reasons for our strong opposition to the testing provisions of the bill before the Education and Labor Committee, including these:

(1) Distribution of Title I funds on the basis of tests, instead of poverty, would divert assistance away from schools with high concentrations of children from low income families.

(2) Unlike using poverty criteria for determining Title I eligibility, the use of tests could result in labeling a child so as to inhibit his future academic development.

(3) Distribution of aid on the basis of poor test scores could serve as a disincentive to encouragement of educational gains among children.

(4) Testing is an unreliable method of measuring educational disadvantage, especially among children from low income families.

There are other questions which could be raised against the use of testing as a substitute for poverty criteria in determining Title I eligibility, but these should be sufficient to indicate our serious concern. We hope you will agree with our position on this important issue and oppose any efforts in your subcommittee to change the basis for determining Title I eligibility. Economic criteria should continue to be used as the basis for distribution of Title I funds.

On behalf of the Leadership Conference on Civil Rights, we wish to thank you sincerely for your support on so many occasions in the past. We look forward to working with you in the future. We request that this communication be made a part of your hearing record on elementary and secondary education.

Sincerely,

Clarence
Clarence M. Mitchell
Legislative Chairman

Joe
Joseph L. Rauh, Jr.
Counsel

CMM/JLR
cd

American Federation of State, County & Municipal Employees, AFL-CIO
365 BROADWAY NEW YORK, N.Y. 10013 WOrth 4-8700

district council 37

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Anthony Spennicchia

November 7, 1973

Honorable Claiborne Pell, Chairman
Senate Subcommittee on Education
New Senate Office Building
Washington, D.C.

Dear Senator Pell:

As Executive Director of District Council 37, AFSCME, AFL-CIO, which includes 2000 Family Paraprofessionals in New York City schools among our membership of 100,000, I would like to record the following comments apropos of your committee's deliberations on Title 1 of the Elementary and Secondary Education Act.

Recently in a public meeting at the Board of Education in New York City, John House, New York State Director of Urban Education, stated that to his knowledge there has never been a successful special reading and math program without supportive services included.

In New York State, Commissioner of Education Ewald Nyquist recently advised all local school boards that Title I funds would be directed only to in-school reading and math programs. He subsequently recognized the irreplaceable value of the out-of-class work of Family Paraprofessionals and their importance to the communities they serve and rescinded his initial directive.

However, we in New York were given dramatic evidence that the need for the inclusion of supportive services must be mandated by your committee in its description of the intent and manner in which Title I funds are to be used locally.

It is no longer possible to separate the physical, emotional and social well-being of a child from his or her ability to learn. If the special education needs of children from low-income families are to be aided by Title I funds these funds must be clearly earmarked to take cognizance of the needs of the whole child.

Once this principle is established it would seem logical that the local district have the ability to determine what proportion of Title I funds should be devoted to supportive services. The needs of local districts will, of course, vary depending on the degree of local conditions affecting their children.

Thank you for your consideration of these points. I have taken the liberty of enclosing a brochure which gives some indication of the wide range of vital supportive services performed by Family Paraprofessionals.

Sincerely,

Victor Gotbaum

Victor Gotbaum,
Executive Director

VG:sm
Enclosure

Read these excerpts from letters by and about family paras:

In my capacity as Parent Program Assistant in the Pre-Kindergarten Program I have carried out the following duties.

I have worked as a liaison between the children in the District and their families, in the schools and various public agencies such as Department of Health, etc.

I have assisted the children and their families with special problems in emergency needs in housing, income, health and education.

I have consulted with Administratives and teachers in the schools in these special problems.

I have planned activities for parents such as sewing classes, knitting classes, etc., which will help parents to help themselves and their children.

I have assisted with the recruitment and registration of children.

I have encouraged parents to participate in school life.

I have made home visits when necessary with the Family Assistants.

I have assisted in the preparation of materials for newsletters from schools.

I have held workshops for parents in reading and mathematics in order to help them to help their children.

Ramona M. Gill, Parent Program Assistant

Benjamin Edbott, Principal, P.S. 28

For the past several years, P.S. 28 has enjoyed the benefits of the work performed by those paraprofessionals employed as *Parent Program Assistants, Family Assistants, Family Associates* and *Family Workers*.

Although we have not kept precise statistics, I cannot conceive of operating a viable school program without these essential services. At a conservative estimate, not only were more than 300 home contacts successfully made, but every one of the workers was called upon to assist in the classrooms generally, as well as to work with individual children. The home contacts made by the workers invariably aided the teachers in their instructional programs, thus immeasurably assisting each child's progress.

It is imperative that these positions not be discontinued.

Letter from Martha Rowell, Family Assistant, P.S. 45

Raphael came to us and was ashamed to speak in class because he could not read. He had an accent and the teacher could not understand him. I worked with him for one month using the sound of consonants and vowels and Merril Readers, flash cards, etc., and now he has become more a part of the class.

From a paper submitted by Rhoda S. Lansky, Community Superintendent, District #2
Prepared by Mrs. Luz Ortiz, General Assistant
This paper was sent to City, State & Federal Officials

In 1971-1972, as reported in the New York Times, there were more than 4,000 P.I.N.S. (Persons in Need of Supervision) cases processed through the New York City Courts. During the same year more than 5,000 Juvenile Delinquency petitions were filed with the Courts. Is it not wiser to spend the monies earlier in the formative years so the children can look forward to a healthier society?

"The members of the Family Component in the Public Schools perform a vital role. They bring the school and the home closer together. They act as liaison between the home, the school, and the community. They help the parents and other members of the family with problems related to housing, welfare, health, nutrition, budgeting, shopping, education, and employment by referring and accompanying them to the proper agency.

"Through workshops and trips, planned and organized under the leadership of the Family Component, parents learn about their school, their community, and the city in which they live. To make it possible for the mothers to attend English or High School Equivalency classes, babysitting is provided in the school building by the Family Component. Parents are encouraged to join and participate actively in their school parents association. Many parents have become leaders in their schools and communities through their involvement in Pre-Kindergarten."

"All of us who work and care about children are upset when we learn that Albany is eliminating the Family Component positions. The compact of this mandate will severely change what is a good relationship between the home and the school. These positions have been making the dollar go further by helping the family to help itself. Our children have every right to grow up in a healthier and happier home school environment. We cannot separate the school from the home. Please help us save the Family Component."

Family and Neighborhood Paras keep children in school . . . keep children interested.
Keep your Family and Neighborhood Para programs alive.

Make sure you — your neighbors and your community school board — contact the New York City Board of Education, Commissioner Nyquist (Department of Education, Albany) and your State and City legislators.

TE'' THEM YOUR SCHOOLS NEED YOUR PARAS

Betty Liptin, Family Assistant, P.S. 161

Family Assistants are people who care. They are often called to visit poor families. In the dead of winter they are shocked to find naked children left in the house all alone — no heat — no hot water — clothing all wet. They are the people who escort emergency cases to the hospital. There they sit comforting a sobbing child, worrying whether their severed finger will need an operation.

Bernice Jones—Family Assistant
College Bound Program
John Bowne High School

"As a result of our work, the family school relations have improved to the extent that parents feel free to consult with us about their children and their progress, students feel that we really relate to them, and attendance has considerably improved."

"Home visits reveal a great deal. Sometimes parents, overwhelmed with numerous problems, enthusiastically welcome us, as though they were merely waiting to unburden themselves to a willing listener because he feels he cannot cope with the learning situation. Again, a child is frequently absent or listless because the family situation is such that he must work four or five days a week after school to help meet their needs.

"Sometimes income is so low, even though members of the family work, that they need help in obtaining food stamps and medicaid. In cases where a parent has been disabled for some time, we may have to accompany him to the nearest social security office for disability benefits.

"Where housing is a problem, we try to get the wheels in motion so the family may obtain either public or private housing before the situation becomes intolerable."

Bernard Tabb, Assistant Principal, JHS 252

Dear Mrs. Ingram,

It gives me great pleasure to write this note thanking you for your earnest and dedicated contribution to our school this year. I personally have depended on your assistance, suggestions and dedication.

You have worked hard in the classroom assisting Miss Ramos. You have visited homes and taken home scores of sick and needy children. Most important of all, you have been a most positive bridge between the school and community. At every opportunity you have attempted to place the school and the staff as a positive image in the minds of both parents and children.

Sylvia Plats

"I work closely with children who lack confidence in themselves, helping them to realize they can achieve. I also develop a good relationship with the children so they can feel free to talk out with me any problem that exists."

Estell Seittelman, Principal, P.S. 163M

This is to inform you that Mrs. Tucker and Mrs. Santiago, Family Assistants at P.S. 163M, have serviced this school throughout the year in many ways. They have made home visits in cases where the parents have been unable to come to school. They have often gone on these visits before or after regular school hours in order to accommodate working parents. In addition to working as liaison with the community, they have assisted children directly, on a one-to-one basis and in small groups.

As a result of their having worked with parents and children to improve home and school adjustment, the children involved have shown significant improvement in reading and other subject areas.

We consider their services to be an essential ingredient in the education of the children in this school.

Arthur Castillo, Family Assistant, District 19

"Without *Family Assistants*, teachers in the school will teach far below [illegible]0% of present attendance, since there will not be a stimulus outside the school . . ."

COALITION TO SAVE FAMILY AND NEIGHBORHOOD PARAS
365 Broadway New York, N.Y. 10013, Acting Chairman: Sam Wright

Early in the program M's teacher approached me about

1 — his behavior in the classroom
2 — his everyday lateness
3 — his inability to do any classroom work
4 — his inability to get along with other children

All these problems resulted in my having to take M. home. His mother refused to talk to me, but upon my persistence she finally gave in. I then realized that M. seemed to have even more problems at home than he did at school.

After constant contact with M. in school, I found out that:

1 — his mother was very rarely home after school or in the evening
2 — M. was left in the care of 4th grade brother and his 6th grade sister who seemed to be not very nice to M.
3 — M. was seen out (by himself) very late in the evening by his neighbors.

After learning these facts, I set up an appointment with M.'s mother (which was not easy).

His mother was quite belligerent about getting some professional help for M. the first few times I spoke with her, but finally my constant visits persuaded her.

I set up appointments with Parent and Guidance Counselor, Parent and teacher, parent and myself (not necessarily in that order).

As a result, M.'s lateness has been reduced considerably, his approach to classroom work and play is beginning to take on a *positive outlook*.

M. definitely needs a lot more help that should be continued in the September 1973-June 1974 school year. I am very pleased that I was able to help M. perhaps in a very small way, but, M. is only one in many. I hope services to M. and others will not be abandoned by budget cuts.

Mrs. Aida Cappalla, Family Assistant, P.S. 47

What does a Family Paraprofessional do in New York City schools?

It takes a whole child.

All recognized opinion agrees that a child's capability to learn basic skills cannot be isolated from the emotional and physical well being of the child.

Math and reading cannot be applied like band aids to troubled children.

In New York City, as everywhere, we have learned that problems a teacher may never see can intrude into the classroom and destroy the desire and potential of a child.

The Family Paraprofessionals are the direct response to such problems.

Where poverty, poor housing, underemployment and unemployment warp and crush the human spirit.

In homes where families are deteriorated and hope extinguished.

Where schools are crowded and symptoms may be overlooked and talents unnoticed.

The Family Paraprofessionals provide the additional arm to extend between the school, the home, the child, the neighborhood, the social and government agencies that serve our population.

Now Ewald Nyquist, New York State Commissioner of Education, wants to end all Family Para programs.

Because too many people are unfamiliar with the work of the Family and Neighborhood paras. [illegible] Because too many children will be hurt if these programs are ended.

It is vitally important that all New Yorkers learn more about their work.

THE NATIONAL ADVISORY COUNCIL
ON
EXTENSION AND CONTINUING EDUCATION

RUTH O. CRASSWELLER
CHAIRMAN
EDWARD A. KIELOCH
EXECUTIVE DIRECTOR

[illegible] G STREET, N.W.
ROOM 710
WASHINGTON, D.C. 20005
(202) 382-7985

October 31, 1973

Honorable Claiborne Pell
United States Senate
Washington, D. C. 20510

Dear Senator Pell:

Our Council is the only advisory body concerned with higher continuing education. In addition to our concern with the whole range of over two hundred separate programs of higher continuing education, funded at over two billion dollars a year, we are currently involved in a Congressionally mandated study of the effectiveness of Title I of the Higher Education Act of 1965, as amended.

Under the provisions of Section 14 of the Federal Advisory Committee Act (PL 92-463) our Council--to remain in existence--must be reauthorized by law for a stipulated period of time. I understand that you and your committee are currently considering the matter of reauthorization of those Advisory Councils which you believe should continue to exist beyond the automatic termination provisions of Section 14 of the Federal Advisory Committee Act.

With the unanimous support of our Council, at its meeting on October 26th, I am taking this opportunity to respectfully urge you to extend the existence of this Council beyond the date of its automatic expiration. In this regard, I would hope that our Council could continue in operation at least until the Congress can consider and decide on action needed to reauthorize the Higher Education Act. At that time, I believe it would be timely and appropriate to consider the role and future of this Council within the context of the statute under which it was created.

If it would be helpful to elaborate further on this request, please let me know and we shall respond accordingly.

Sincerely,

Ruth O. Crassweller

Ruth O. Crassweller
Chairman

School District No. 2 of Richland County
6831 Brookfield Road
Columbia, South Carolina 29206

October 11, 1973

The Honorable Ernest F. Hollings
U. S. Senate
437 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Hollings:

This school district is presently undertaking the challenge of fulfilling our obligation to identified talented and gifted students. In this changing world, with changing values and social structures, educational institutions have been forced to constantly reassess student needs, and make adjustments accordingly. Recently, a great deal of effort has been exerted in behalf of the handicapped child and the slow learner. In fact, as you know, the state of South Carolina now has legislation which mandates a state-wide program for the handicapped. For this, we are grateful. We think we are making great strides in this area.

However, our student needs assessment is calling for attention at the other end of the spectrum. Talented and gifted students are often not identified until high school, and by that time, their creativity and giftedness can be stifled. It has been our regrettable experience to discover that many of these students have even dropped out of school because of an atmosphere that holds them back. We cannot take these students for granted and say, "they will get it on their own". They are not greatly different from other children in their need to be encouraged, motivated, and directed. Progressive educators must stop the practice of shooting for the middle and ignoring the fringes. A democratic educational system will take care of the fringes also.

Richland County School District No. Two is presently engaged in developing a program to be implemented during 1974-75 for talented and gifted students. We are able to do this with the assistance of a planning grant through Title III of P. L. 89-10 ($25,000). A coordinator has been hired, and programs around the country are being investigated and applied to our needs. We believe that such federal assistance is the incentive we need to develop an exemplary program, which might influence other school districts to do the same. By plowing this new ground in South Carolina, we are certain we can encourage other school districts to jump on the bandwagon with us. The ultimate long-range goal would be to have a state-funded program similar to that in Georgia and Florida.

This background information will help you understand our distress upon learning that Senator Claiborne Pell's bill does not earmark any money for talented and gifted programs, as opposed to Senator Jacob K. Javits's bill. We strongly believe that this educational movement has great merit, and federal assistance has its greatest impact when used in the development of model programs. We strongly urge your support for inclusion of these monies.

Your assistance in expressing our point of view to your congressional colleagues would be greatly appreciated. Any information you could provide us concerning the status of this legislation would likewise benefit our effort.

We extend to you a cordial invitation to visit our school district and see our programs. We believe that we are utilizing federal monies to the maximum advantage of students in our community. The honor of having you share this pride would be of inestimable value to us.

We anxiously anticipate your response.

Sincerely,

H. E. Corley

H. E. Corley, Superintendent

Herbert B. Tyler

Herbert Tyler, Ph. D.
Assistant Superintendent

Sidney Hopkins

Sidney W. Hopkins, Coordinator
Talented/Gifted Project

HEC:HBT:SWH/lw

BEST COPY AVAILABLE

National Capital Personnel
Guidance Association
1607 New Hampshire Avenue, N. W.
Washington, D. C.

October 30, 1973

Senator Claiborne Pell
Labor and Public Welfare Committee
United States Senate
Washington, D. C. 20210

Dear Senator Pell:

The District of Columbia Personnel and Guidance Association is an organization of over 500 guidance counselors in area schools, government and private social agencies. We are writing to you at this time in support of categorical aid funding for guidance and counseling. We believe that the interest of all students are best protected by such funding rather than general revenue sharing or consolidated grants.

We urge your committee to support categorical funding for Guidance under Title III of the Elementary Secondary Education Act.

Sincerely,

Robert Humbles, Jr.

Robert Humbles, Jr.
President

Evelyn M. Murray

Evelyn M. Murray
Legislative Chairman

RH:krk

BEST COPY AVAILABLE

INDEPENDENT SCHOOL DISTRICT NO. 625
THE SAINT PAUL PUBLIC SCHOOLS
SAINT PAUL, MINNESOTA 55102

PLEASE ADDRESS REPLY TO:
COUNSELORS OFFICE
MONROE JUNIOR-SENIOR HIGH SCHOOL
810 PALACE AVENUE
ST. PAUL, MINNESOTA 55102
222-0781

October 22, 1973

The Honorable Claiborne Pell
United States Senator
325 Old Senate Office Building
Washington, D.C. 20510

Dear Senator Pell:

As a high school counselor in St. Paul, Minnesota, and as a member of the American Personnel and Guidance Association, I have read with interest and real concern the testimony on behalf of the APGA on Elementary and Secondary Act Extension before the United States Senate Subcommittee on Education.

I strongly support the APGA's position: that our desires in the form of federal support lie in a categorical funding package designed as was NDEA Title V-A, with autonomy and specified funds over a long-range period, to be used by each State according to its specific needs and plans. Barring this possibility, we advocate the continued categorical funding as a special section of ESEA Title III, and cannot support any consolidated package which does not provide for specific funds allocated to guidance and counseling.

I urge your careful consideration of this matter which bears directly upon the welfare of youth.

Sincerely yours,

Mary C. Pabst

Mary C. Pabst
Counselor
MONROE JUNIOR-SENIOR HIGH SCHOOL

western union

Telegram

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PMS SENATOR CLAIBORNE PELL
CAPITOL HILL DC

CATEGORICAL AID FOR GUIDANCE AND COUNSELING MANDATORY TO INSURE ALL USE SERVICES OF TRAINED PERSONNEL

GERALDINE KINKAID PRESIDENT SCHOOL COUNSELOR ASSOCIATION 700
SOUTH GRANT OLATHE KS 66061

KANSAS SCHOOL COUNSELOR ASSOCIATION
A Division of the
Kansas Personnel and Guidance Association
and the
American School Counselor Association

Lake Quivira
Kansas City, Ks.
66106

Oct. 28, 1973

Senator Claiborne Pell
United States Senate
Washington, D.C. 20510

Dear Senator Pell,

I'm writing you, as Chairman of the Senate Subcommittee Mark Up, of the Elementary and Secondary Education Act, S-1539, to ask for your support of categorical aid for ESEA III, Guidance, Counseling and Testing.

Kansas elementary counselors have firm data to support the basic idea that they are needed, wanted, and do help.

In working in Title I—Educationaly deprived areas of K.C. I'm constantly asked by parents, teachers, and principals—why cant we have a counselor for each school?

I work in all black schools (I'm white)—make numerous home calls at noon, during the day, and at night to try to help parents to understand and help their own children. We have drug problems—I show films & film strips to pupils K-6, talk to PTA groups and last year conducted a mothers group—held in a housing project for their convenience. Also many activities group and individual are held with pupils.

Sincerely,
Ruth McLean, Former Pres. K.S.C.A.

A CRITIQUE OF FOURTEEN YEARS OF FEDERAL FUNDING FOR ELEMENTARY AND SECONDARY SCHOOLS AND A PROPOSAL FOR AN IMPROVED METHOD OF FUNDING

The title of this piece and what follows should not be interpreted as a diatribe against Federal funding. I believe in Federal funding at a much larger scale than is now, or has been, practiced; but I also believe the thrust of Federal funding needs to be altered drastically to be effective.

I wish in no way to detract from the many fine Federally funded projects that have been executed, but it is important to remember that the results of these projects have not entered the educational mainstream.

Since 1959 the Federal government has helped fund elementary and secondary education.

A. Because of certain historic events, legislation was enacted to improve the teaching of science, mathematics, and modern foreign languages.

B. Later legislation was enacted to provide funds for teaching "disadvantaged" children, both those in school and those not yet of traditional school age.

C. Funds were made available to improve libraries and classroom materials and equipment in certain academic areas.

D. More funding was made available for "innovative" projects and to help State Departments of Education hire additional staff to provide more "services" and to help decide which "innovative" proposals to fund.

E. More recently, the Congress has provided funds for such diverse areas as:

1. Guidance
2. Handicapped

3. Career education
4. "Drug" education
5. Humanities
6. Etc., etc.

WHAT HAVE THESE FUNDINGS ACCOMPLISHED?

Do research data exist that demonstrate on a large scale:

A. Improved teaching?

B. Improved learning?

C. A more intelligent, humane, and informed citizenry?

D. More interest and higher achievement in science, mathematics, or foreign languages?

E. More "innovative" approaches to teaching and learning throughout the U.S.?

F. More attention to individual differences, especially to very talented, highly motivated, and extremely intelligent young people?

G. A shift in teacher orientation from a "teaching" role toward a "management" and/or "facilitator" role.

What improvements have been generated by fourteen years of accelerated Federal funding? What changes are evident? If 1,000 randomly selected teachers in 1959 had been carefully observed for a period of one week and then observed again in 1973, is anyone willing to argue that the 1973 reports would show significant improvements of the 1959 reports?

There have been changes during the past fourteen years that are observable, measureable, and widespread:

A. There is an increase of audio-visual materials and equipment.

B. There are more books in libraries.

C. There are more and updated maps and globes.

D. There is more science equipment and furniture.

E. There are more language laboratories and accompanying soft ware.

F. There are many schools with fewer walls and more carpet.

G. More teachers have Masters degrees and Masters plus 30, especially in science, mathematics, and foreign languages.

H. More university and college professors receive a portion of their salaries from Federal funds, especially those in science, mathematics, and foreign languages.

I. Many new jobs have been generated:

1. In H.E.W.
2. In regional offices
3. In State Departments of Education
4. In universities and colleges.
5. In school districts

These new jobs usually cluster around three major thrusts:

1. Writing proposals
2. Reading proposals
3. Evaluating proposals

J. There are more paraprofessionals (aides).

K. There are more guidance counselors.

WHO HAS BENEFITTED FROM FEDERAL FUNDING DURING THE PAST FOURTEEN YEARS?

A. Science and language laboratory furniture companies.

B. Science equipment companies.

C. Audio-Visual companies, in both hard and soft ware.

D. Map and globe companies.

E. Book publishers

F. Teachers who received subsidized education.

G. Those who were added to the payrolls of H.E.W., universities and colleges, and school systems to write, review, and evaluate proposals.

H. Those who were added to payrolls of school districts as aides, extra teachers, clerks, and those who worked on summer projects generated by Federal funds.

I. Even though schools are in existence for one purpose--to educate young people to the limit of their potentials, one is hard pressed (some say it is impossible) to demonstrate any lasting benefits to students because of Federal funding of elementary and secondary education.

WHERE DID WE GO WRONG?

A. Nothing has been done to radically change the curriculum! The same basic content is taught in 1973 that was taught in 1959 (or perhaps 1949, or even 1939).

B. The "teaching" process is basically unchanged from 1959?

C. Pre-service teacher education, for the most part, still operates in the isolation of departments of education.

D. A secondary school student still chooses from a "menu" of from between 60-400 courses, depending on the size of his school. His education is fragmented.

E. For the most part the student is forced into a "book" oriented process and an atmosphere of "middle class" values.

F. Foreign language enrollments are dropping.

G. Fewer students choose science electives than in 1959.

I submit we went wrong when the assumption was made that more books, more hardware, more soft ware, and more semester hours for teachers would improve education.

WHAT DO WE DO NOW?

A. We look for a successful management model.

B. We keep in mind that what transpires in a school between student and teacher, student and student, teacher and teacher, and what administration does is far more important than furniture, books, and equipment and the number of semester hours a teacher has earned.

C. We develop a new approach to pre-service and in-service education, so that results of research and successful experimental programs will exert a total and continuing effect on elementary and secondary education.

A PROPOSAL TO IMPROVE ELEMENTARY AND SECONDARY EDUCATION BY:

A. Establishment of university and college based
    1. Research and development centers
    2. Experimental elementary and secondary schools
    3. Extension services to schools not included in A(2)

B. Establishment of
    1. Pre-service teacher education teams involving arts and science faculty members, education departments, and fine arts faculty members, and selected personnel from related elementary and secondary experimental schools
    2. Pre-service teacher education centers in experimental schools

C. Establishment of lines of communication and operational procedures among R and D centers, experimental schools, and extension service schools.

D. The existing model for such an organization, including Federal involvement, already exists in the land grant colleges (R and D), experimental stations, and extension service to the ultimate user (the farm family).

In this proposed model for improvement of elementary and secondary education a university (R and D center) could be named to cover regions on a student population basis. South Dakota, for example, might have one R and D center, while California or New York might have many such centers.

These R and D centers would work with all other teacher training institutions in the region.

One rather large public school system per region would be an experimental school and teacher training center. Under this model pre-service and in-service education would take place in the experimental system. Selected university and college personnel would spend a large portion of their time in the experimental system. Also selected experimental school teachers would have half (or more or less) time duties for pre-service and in-service education.

All other schools in the region will receive "extension service" attention. Teachers will be able to come to the experimental school, while student teachers and (in some cases) experimental school staff members will assume short-time duties in these schools.

E. This model has the following advantages:

1. Teacher training takes place in a school setting rather than in the isolation of an "education department."
2. The R and D centers and affiliated colleges will be able to develop cross discipline teams and to work closely with ongoing projects in the experimental school and be involved with all schools in the region.
3. Innovations, improvements, and other experimental results reach the entire field in a short time.
4. The model affords an ongoing in-service program.
5. The model affords opportunity for "master" teachers to exert leadership and be paid accordingly, as they accept dual responsibilities with university and college faculties.

WHERE DOES FEDERAL FUNDING ENTER THIS MODEL?

A. This would depend on planning, congressional hearings, and regional needs.

B. Experimental schools will need additional building, furniture, equipment, and supplies to house and operate pre-service centers.

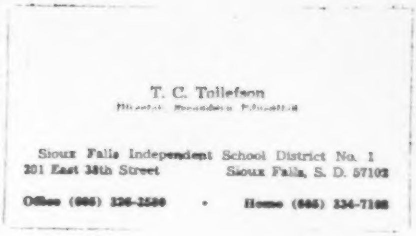
C. Funding will be needed for extensive travel between R and D centers, experimental schools, and all other schools in the region.

D. Computer centers should be set up for management and instruction.

E. Funds will be needed for travel to national centers and to bring "experts" into the regional network for advice and in-service activities.

F. These are only examples. Funding should be based largely on (A) above.

In conclusion we have here a proposal that has the potential for a mild revolution in use of Federal funding, teacher education, in-service activities, and immediate implementation of experimental results. This will place emphasis on curriculum, methods, and quick implementation of research results. The overall effect will be to reach students with an improved educational experience instead of adding books, hardware, and materials and continuing the same curriculum and methods.



T. C. Tollefson
[illegible]

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SCHOOL DISTRICT 193
Phone 208 587-4484 P. O. Box 890
MOUNTAIN HOME, IDAHO 83647

October 29, 1973

Hon. Frank Church
United States Senator
Senate Office Building
Room 245
Washington, D. C. 20510

Dear Senator Church:

I am concerned about the following amendments adopted by the House Education Committee:

1. Reduced Impact authorization to two years
2. On page 67, insert between lines 9 and 10:
   Reimbursement of Commissioner of Education for Expenses Incurred from Activities of the Department of Defense

   Sec. 310. The Act of September 30, 1950, (Public Law 874, Eighty-first Congress) is amended by adding at the end of Sec. 302 the following new subsection:

   (e) for the purpose of enabling the Commissioner to make a payment under Title 1 of the Act in respect of a child of a parent (1) who is a member of the armed forces, as defined in 10 U.S.C. 101(4), or (2) is an officer or employee of the Department of Defense or a military department, as defined in 10 U.S.C. 101 (5), the Secretary of Defense shall pay to the Commissioner, in advance or by way of reimbursement, and upon such other terms and conditions as the Secretary of Health, Education, and Welfare may prescribe, for credit to the applicable appropriation and maintenance as a fund without fiscal year limitation, such amounts as the Secretary of Health, Education, and Welfare may determine that the Commissioner requires for that purpose.

Also, the House Committee has agreed to consider an equalization amendment.

To date I have not received information on proposals under consideration by the Senate Sub-Committee on Education. What amendments are they considering?

In the event the Senate Education Committee is considering similar amendments or in a Senate-House Conference Committee, I solicit your opposition to them and seek your support for a uniform authorization period (suggest 5 years) for all education programs. In my opinion to provide varying periods of authorization will weaken the structure of all programs. Isolation of programs will result in greater confusion and prolong decisions. Effective legislation dictates that education programs be reviewed at the same time.

With reference to an equalization amendment to P.L. 874; I ask your opposition to an amendment of this type. When in Washington, D. C. during the early part of October, I asked for statistics on the effect this amendment, under consideration by the House Education Committee, would have on a State by State basis and on a district by district basis within each State. I was informed this information was not available - it had not been compiled. Hence, my next inquiry was; why not? In this age of computers and data processing it would be a routine task to obtain print-outs of the data. At this point, I was advised that this information could not be obtained because the Secretary, Health Education and Welfare and the Commissioner of Education would be delegated the authority and responsibility to develop the governing rules and regulations. The operating rules and regulations are not part of the legislation; therefore, it would be left to the discretion of the Secretary and the Commissioner.

During the discussion I was repeatedly assured and reassured the proposed amendment would not have this affect and we would not lose funds; objective evidence (data processing print-outs) were not available to back up this assurance.

After the above discussion with Mr. Cross, Minority Consul, House Education Committee, I learned that the previous day the Senate had amended the School Lunch Bill to suspend certain sections of P.L. 874 in order to rescue eligible P.L. 874 school districts in Kansas and North Dakota. Eligible P.L. 874 school districts, in these states, were facing bankruptcy due to restrictive state statutes that had the same effect, in my opinion, that an amendment of this type will have on this district and many other districts. My opinion is not based on objective evidence either because there are no guidelines to follow in making computations.

I object to entrusting this vital issue to the discretion of the Secretary of Health Education and Welfare and the Commissioner of Education. My objections are based on the interpretations of OMB, the Secretary of HEW and Commissioner of Education on such matters as the FY73 Continuing Resolution; and decisions like, no entitlement for 3b students (incidently, I have been advised by the USOE that preliminary payments for FY74 will not include entitlement for 3b students -- who's decision is this?)

I believe you share my concern in this matter, therefore, I would be grateful if your office would request statistics on what the effect of an amendment of this type would have on each State and on individual districts within each state. I am curious about the availability of such data!

I am aware that Congress must review and analyze all aspects of the "equalization issue". However, from the viewpoint of one looking down the barrel of the gun, I trust that Congress will not act impulsively and pass an amendment in haste which will create financial havoc for participating districts.

Caution and careful study are needed prior to enactment of legislation of the type under construction by the House Education Committee. It is my firm belief that PUBLIC SCHOOL ADMINISTRATORS should be involved in any study concerning an equalization factor and/or other amendments. I would welcome the opportunity for face to face input in developing recommendations; in lieu of or in addition to testimony at a hearing.

In my opinion any equalization factor should accurately document the over-all effect and the effect on individual districts; such research must be prior to enactment. The proposal should provide for a gradual phase-in or phase-out factor. For example the time span should protect the fiscal integrity of each school district by allowing ample time for fiscal adjustments; such as 10% a year for seven (7) years. This brings up another consideration; the total entitlement should not be subject to equalization. The additional financial burden imposed by the Federal activity should be identified and these costs should not be subject to equalization; they should be outside the equalized portion.

The Congressional Education Committees are confronted with the problem of imposing financial hardships on school districts as a result of using the 1970 Census Data in the distribution of ESEA-Title I funds. Several "save harmless" formulas have been presented 85%, 90%, etc. and 110, 115, etc.,(on the other end of the scale).

Resolving this problem will not be easy. Regardless, I'm certain that Congress, in its wisdom, will not penalize school districts at this date in the fiscal 74 school year. Contract obligations encumbered last spring cannot be cancelled because of population shifts, both intra and inter state and due to legal requirements governing contracts.

Since school districts start budget preparation, for the next fiscal year, during December of the preceeding school year, they should be advised on the ESEA-Title I distribution formula for FY75 at the earliest possible date.

Early notification is important in authorization and appropriations legislation for all federal education programs; such notification is not restricted to ESEA-Title I. Forward funding of appropriations would be a more suitable solution for local budget development and financial planning.

I will deeply appreciate your office keeping me up-to-date on developments related to federal education programs; both authorization and appropriations legislation.

In closing I wish to extend my thanks and appreciation to your office staff for the many courtesies extended on my behalf during my recent visit to Washington. They were very gracious and volunteered their services in any way they could to be of help.

Best wishes and kindest regards.

Sincerely,

Jack E. Jones

Jack E. Jones,
Superintendent

JEJ:gs

Senator PELL. The subcommittee will recess until 10 o'clock tomorrow when we will have a hearing on the implementation of the basic grants.

[Whereupon at 12:02 a.m., the hearing was recessed, to reconvene Thursday, October 11, 1973, at 10 a.m.]

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